

**PLAN FOR MANAGEMENT OF
MINERAL ASSETS ON NATIVE TRIBAL LANDS
AND FOR FORMATION OF A FULLY INTEGRATED
NATURAL GAS AND OIL EXPLORATION AND
PRODUCTION COMPANY**

for

**Management and Operating Contract
for the Department of Energy's
National Oil and Related Programs**

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BDM-Oklahoma, Inc.
P.O. Box 2565
Bartlesville, Oklahoma 74005

ABSTRACT

This report describes a plan for Native American tribes to assume responsibility for and operation of tribal mineral resources using the Osage Tribe as an example. Under this plan, the tribal councils select and employ a qualified Director to assume responsibility for management of their mineral reservations. The procurement process should begin with an application for contracting to the Bureau of Indian Affairs (see Appendix A). Under this plan, the Director will develop strategies to increase income by money management and increasing exploitation of natural gas, oil, and other minerals.

The Osage Mineral Reservation Estate is currently managed by the Bureau of Indian Affairs at the Osage Agency, Branch of Minerals, in Pawhuska, Osage County, Oklahoma. Under the plan, the Osage Mineral Reservation Estate under the Director would assume responsibilities for administration and enforcement of environmental regulations currently performed by the Environmental Protection Agency. The new management of the Estate would also assume responsibilities for archeological evaluation of new leases and new construction on existing leases. The plan has a 2-year training and transition period for the Director and Tribal Council to staff and train employees on all existing policies and regulations and to write and adopt new regulations and policies to fill current gaps. The Director would assume full management responsibilities for the Tribal Mineral Estate and income that it generates.

In addition to the change in management responsibilities for the Tribal Mineral Reservations, this plan calls for a fully integrated natural gas and oil exploration, drilling, production, gathering, processing, and sales company to be created by the Tribal Council minimizing risk to the assets of the Tribal Mineral Reservation Estate. The Company would be incorporated for the purpose exploiting natural gas and oil on the Tribal Mineral Reservation Estate and to increase income for the Estate. The Tribal Council would appoint a Board of Directors, who would employ a qualified President to manage and direct natural gas and oil exploration and production operations. Staffing of the Company would begin in the first phase with selection of a Board of Directors and employment of a President. The plan calls for financing the Company by the end of the second quarter of operation, and for it to be fully staffed and operational in three years.

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1.0 INTRODUCTION

1.1 Native American Energy Resource Development and Vertical Integration

Many Native American Tribes want to increase mineral resource production by decreasing the cost and risk associated with recovery and development. They also want to begin participating in the production, processing, distribution, and end use of these mineral resources on their reservations, thereby increasing the benefits from the tribe's mineral estate over and above mineral royalty earnings. The Federal government has enacted two programs to make these objectives more readily attainable. Section 2603 of the Energy Policy Act of 1992 provides provisions for promoting energy resource development and energy vertical integration on Indian reservations. Part (a), entitled Demonstration Programs, states "The Secretary of Energy, in consultation with the Secretary of the Interior, shall establish and implement a demonstration program to assist Indian tribes in pursuing energy self-sufficiency and to promote the development of a vertically integrated energy industry on Indian reservations, in order to increase development of the substantial energy resources located on such Indian reservations." Also as a part of this act, provisions are made to "involve and consult with Indian tribes to the maximum extent possible and where appropriate and shall do so in a manner that is consistent with the Federal trust and the Government to Government relationships between Indian tribes and the Federal Government." Consistent with that act, the Domestic Gas and Oil Initiative (DGONI) of December 1993 provides a reaffirmation of the policy. The DGONI states "DOE will also forge new partnerships with Native American Tribes to increase domestic natural gas and oil production on tribal lands." These partnerships will strive to recognize the importance of economic development, environmental preservation, and cultural sensitivity to tribal affairs. This will involve cooperative efforts among DOE, various Interior Department agencies, the Administration for Native Americans, the Council of Energy Resource Tribes, and individual Native American Tribes.

1.2 The Osage Tribe

The Osage Tribe has been involved in the exploration and exploitation of mineral resources (principally oil and gas) on tribal lands since 1906. Throughout most of the history of mineral resource exploration and exploitation on tribal lands, the focus has been on generation of income from royalty production. While that income served the tribe well, it did not provide tribal members with opportunities to participate in the business end of petroleum development.

The Federal Government Act of June 28, 1906 as amended established the principle of tribal ownership for all mineral resources on Osage lands in the Oklahoma Territory. Those lands

became designated as Osage County when Oklahoma became a state in 1907. Since that time, the Osage Tribal Council has had the responsibility of managing the mineral estate for the Osage Nation. The mineral estate consists primarily of oil and gas resources. Throughout most of the history of oil and gas production in Osage County, the primary involvement of the Osage Tribal Council was the issuance of oil and gas leases to operators and the collection of royalty income from the ensuing production.

The Osage Tribal lands are in an area historically rich in mineral resource (oil and natural gas) reserves. Because of this, the history of the Tribe and the history of the exploration and exploitation industry have been intricately interrelated. During the past ten years, the steady decrease in oil prices and the steady increase in lifting costs have contributed heavily to a decline in production. Production in 1984 in Osage County from 3,875 active leases consists of 26,500 barrels per day of oil (BOPD) and 26,100 thousand cubic feet per day of natural gas (MCFGD), whereas production in 1994 dropped to 14,300 BOPD and 9,200 MCFGD from approximately 2,700 active leases, a decrease of 46% in oil production and 65% in natural gas production in the ten-year period.

The decline in production and the departure of the major oil companies from Osage County has led to the recognition that the Tribal Council must get more involved in the development of their resources. This report is designed to provide the Osage Tribal Council with the information needed to make informed management decisions about the further development of their mineral estate. Because most of the current oil and gas operators in Osage County are small companies and independents, it is also important that the Tribal Council make oil and gas information readily available to those operators to aid in the development of new resources. Unlike the major oil companies, which have both the personnel and resources needed to develop their own information, most small companies must rely on other for such data. Furthermore, the need for technical information on improved recovery methods and other approaches to reduce operating costs are critical to sustaining production from existing fields. It is in the best interest of the Tribe to support these small operators through the provision of information and technical assistance, that is, through the implementation of an information-technology transfer program.

It is also in the best interests of the Tribe to become more actively involved in the day-to-day management of these properties by participating in the production, processing, distribution, and end-use operations of the mineral resources. The same information support provided to the small operators can be used by the Tribe as a management tool for Tribal resources, supporting decisions regarding the most appropriate path for these vertical integration activities.

1.3 Current Situation

Mineral assets of Osage Reservation Lands in Osage County, Oklahoma, are currently managed and administered by the Bureau of Indian Affairs (BIA) at the Osage Agency, Branch of Minerals, in Pawhuska, Oklahoma. It leases mineral rights to operators for exploitation of natural gas, oil, and other minerals; polices field operations for compliance with surface environmental regulations and landowner rights; and accounts for royalties from sales of

natural gas, oil, and other minerals. These functions are carried out under the direction of the Superintendent by 35 employees (see Fig. 26). In addition, the Environmental Protection Agency (EPA) manages and enforces the Class II injection well program under its Underground Injection Control (UIC) Program for produced brine and other wastes associated with hydrocarbon production. The Osage Mineral Reservation Estate currently produces approximately 14,000 barrels of oil per day (BOPD) and 10–11 million cubic feet of gas per day (MMCFGD), generating approximately \$100 million gross income and \$15–\$20 million royalty income per year to the Estate.

2.0 THE TRIBAL MINERAL RESERVATION ESTATE

2.1 Proposal for Management and Administration

Under the plan outlined here, the Director of the Tribal Mineral Reservation Estate, reporting to the Principal Chief and the Tribal Council, would assume the BIA's management and administrative functions for the Tribal Mineral Reservation Estate after a 2-year training and transition period (Figures 1-3). Qualified managers for each of the sections currently administered by the BIA (i.e., Engineering, Field, Leasing, and Accounting) will be selected by the Director and the Tribal Council (Figure 4). During the transition period, the Director and section managers will work in conjunction with the BIA to learn the current system, identify administrative and regulatory gaps in the current system, and fill these gaps as necessary. A qualified Environmental and Safety Manager and staff members would be employed to administer, inspect, and enforce the Class II-UIC Program currently administered by the EPA, surface environmental regulations currently administered by the BIA, and safety regulations. Vacancies will be filled with qualified members of the Tribe, when available, who will be trained during the transition period. The Director, section managers, and additional staff will be trained to assume full responsibility for administration and daily work by the end of the transition period. Plans for filling administrative and regulatory gaps identified during the transition period will be implemented as the Tribe assumes full management responsibilities. During the 2-year transition period, consultants would be used to assist in organizing, training, and staffing for the Tribal Mineral Reservation Estate.

2.2 Management Responsibilities

The Tribal Council would select a qualified Director for training to assume responsibilities of management and administration of the Tribal Mineral Reservation Estate. The Director will report all pertinent activities (leasing, hydrocarbon and other mineral sales, enforcement, accounting, etc.) to the Tribal Council on a monthly basis and in an annual report at the end of each fiscal year. Management of daily activities for the Engineering, Field, Leasing, Accounting, and Environmental and Safety sections will be performed by section managers reporting to the Director. Section managers will submit monthly and annual reports to the Director on activities of their sections.

2.2.1 Director of the Tribal Mineral Reservation Estate

The Director of the Tribal Mineral Reservation Estate would be responsible for management and development of the assets of the Estate by exploitation for profit of natural gas, oil, and other minerals in environmentally safe operations and in the most prudent and efficient manner as practical for the benefit of the Estate. For example, assets of the Osage Mineral Reservation Estate are located in Osage County in northeast Oklahoma and within the boundaries of the Osage Indian Nation. Estate assets that the Director would manage cover an area of approximately 1,470,00 acres with approximately 17,500 wells (13,500 natural gas and oil wells, and 4,000 water-injection wells and other types of service wells) and an average oil production of approximately 14,000 BOPD and 10–11 MMCFGD. Natural gas and oil are produced from approximately 2,700 leases that generate a gross revenue of approximately \$100 million per year and \$15–\$20 million royalty revenue for the Estate. These operations impact employment in Osage County and northeastern Oklahoma, generating income for Tribal members and the community.

A qualified Director would be selected by the Tribal Council when the contracting process is completed with the BIA (see Appendix A). The Director would report to the Tribal Council and would be delegated authority (which is defined later in this report) by the Tribal Council. Upon assuming responsibilities of the Director, a phased transition and training period of 2 years will begin. For example, the Director will ultimately assume all duties and responsibilities performed by the Branch Chief of the BIA, Osage Agency, Branch of Minerals. The Director will manage the sections currently administered by the BIA, and the Environmental and Safety Section currently administered by the EPA. Implementation of existing regulations and policies of the Osage Agency and identification of gaps and development of policies and plans to fill these gaps is the responsibility of the Director. At the end of the transition period, the Director will assume full responsibility for management of the Tribal Mineral Reservation Estate and implementation of all rules, regulations, and policies for exploitation of natural gas, oil, and other minerals and environmental protection, as these operations are carried out on a daily basis.

2.2.2 Engineering Manager

The Director of the Tribal Mineral Reservation Estate would select, with confirmation by the Tribal Council, a qualified engineer as Manager of the Engineering Section. The Engineering Manager shall be a qualified engineer (petroleum engineer, mechanical engineer, etc.) with experience in the hydrocarbon industry in drilling, production, reservoir engineering, or other phases of natural gas and oil exploitation operations. The Engineering Manager will report to the Director of the Mineral Reservation Estate. Monthly and annual reports will be submitted to the Director on the activities conducted by the Engineering Section. This position will be filled during the first phase. The existing staff of the Engineering Section employed by the BIA would be considered for the appropriate positions, for example, in the Osage Mineral Reservation Estate; vacancies will be filled, if possible, by qualified members of the Osage Tribe (Figure 6). The Engineering Manager will undergo a 2-year training period during the transition before assuming full managerial responsibility.

The Engineering Manager will be responsible for reviewing the duties, responsibilities, functions, and activities of the Engineering Section to identify gaps that need to be filled with new policies and/or regulations for exploitation of natural gas, oil, and other minerals under the Tribal Mineral Reservation Estate. The Engineering Manager will also review duties of the staff of the Engineering Section to determine whether additional qualified staff members are needed to perform engineering studies on prematurely abandoned reservoirs, fields, or leases. Additional qualified staff will be phased in and employed as needed for engineering studies or to perform existing tasks. The Engineering Manager and staff are responsible for developing procedures for more efficient oversight and implementations of policies and regulations that exist or will be developed in the future. Policies and/or regulations will be written and submitted to the Director and Tribal Council for approval and implementation when the Engineering Manager assumes full responsibility for management of the Engineering Section.

Duties to be performed by the Engineering Section are:

- Review areas nominated for lease sales for evaluation and prepare comments for sales bulletin.
- Issue drilling, workover, saltwater disposal, and plugging permits, if applicable.
- Review oil and gas leases for development requirements.
- Process completion and workover reports for wells in the Mineral Reservation.
- Review and approve seismic applications.
- Review and process Natural Gas Policy Act gas price determinations.
- Consult with lessees to resolve questions concerning mineral operations.
- Perform reservoir engineering studies on prematurely abandoned reservoirs, fields, or leases to determine remaining recoverable reserves and best recovery processes.
- Submit reservoir engineering study reports to the Director for sale to potential lessees.
- Assess unleased exploratory acreage for resource potential of generating income from natural gas and oil.
- Assist in resolving technical problems pertaining to waterflood and all other mineral operations.
- Review gas contracts for approval.
- Maintain plat books indicating location and status of all wells and leases.
- Review and monitor natural gas, oil, and other mineral operations.

2.2.3 Field Manager

The Director of the Tribal Mineral Reservation Estate would select, with approval from the Tribal Council, a qualified engineer as Field Manager. The Field Manager shall be a qualified engineer (petroleum engineer, mechanical engineer, etc.) with experience in the hydrocarbon

industry in drilling, production, or other phases of natural gas and oil exploitation operations. The Field Manager will report to the Director of the Tribal Mineral Reservation Estate. Monthly and annual reports will be submitted to the Director on the activities conducted by the Field Section. This position will be filled during the first quarter of operation. The existing staff of the Field Section employed by the BIA will be considered for the appropriate positions in the Tribal Mineral Reservation Estate; vacancies will be filled, if possible, by qualified members of the Tribe (Figure 7). The Field Manager will undergo a 2-year training period during the transition before assuming full managerial responsibility.

During start-up, the Field Manager and staff will be responsible for reviewing the duties, responsibilities, functions, and activities of the Field Section to identify gaps that need to be filled with new policies and/or regulations for exploitation of natural gas, oil, and other minerals under the Tribal Mineral Reservation Estate. The Field Manager will review duties of the staff of the Field Section to determine whether additional qualified staff members are needed to perform duties in the oversight of field operations. Additional qualified staff will be employed and trained as needed to perform field inspection duties. The Field Manager is responsible for developing procedures for more efficient oversight and implementations of policies and regulations that exist or will be developed in the future. Policies and/or regulations to fill gaps will be written and submitted to the Director and the Tribal Council for approval and implementation when the Field Manager assumes full responsibility for management of the Field Section.

Duties to be performed by the Field Section are:

- Monitor leases to assure they remain on production or are canceled.
- Act as a mediator in disputes between landowners and mineral lessees.
- Inspect, appraise, and collect for oil operations on restricted property.
- Spot gauge oil removed from tanks to see that Tribe is receiving the correct amount in royalty.
- Witness tank-bottom removals to assure that only waste oil is removed from tanks in the proper quantities.
- Witness gas meter provings.
- Witness LACT meter provings.

2.2.4 Environmental and Safety Manager

Under the current structure of the Osage Agency administered by the BIA, there is no Environmental and Safety Section. Some of the responsibilities, policies, regulations, and duties of environmental compliance enforcement fall under the Field Section of the Osage Agency and some fall under the administrative enforcement authority of the EPA. This new section is being created to assume all of the environmental responsibilities performed by each of these groups as well as other appropriate environmental functions pertaining to the Estate. During start-up, the

Tribal Mineral Reservation Estate would adopt environmental regulations at least as stringent as or more stringent than regulations administered and enforced by the EPA in order to achieve primacy to administer and enforce environmental regulations. The Environmental and Safety Section will also review current regulations for gaps that need to be filled and enforced on the Mineral Reservation Estate and have them written and approved for implementation at the end of the 2-year transition period. The Environmental and Safety Section will have added responsibility under the new organization and management to evaluate the lessee's archeological survey on each new lease and before all new construction on existing leases. Therefore, a qualified archeologist with experience in conducting surveys on Native American Tribal lands will be employed. Should the duties of the archeological position increase beyond capabilities of the Environmental and Safety Section, the Tribal Council should consider forming an Archeological Section for the Mineral Reservation Estate.

The Environmental and Safety Section will also assume responsibility for safety inspection and enforcement of all safety regulations for natural gas and oil exploration, drilling, production, and processing operations on the Estate. Federal environmental regulations that impact natural gas and oil exploration, drilling, and production operations are:

- Resource Conservation and Recovery Act (RCRA)
- Safe Drinking Water Act (SDWA)
- Clean Water Act (CWA)
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
- Superfund Amendments and Reauthorization Act (SARA)
- Clean Air Act (CAA)
- Toxic Substances Control Act (TSCA)
- Oil Pollution Act of 1990 (OPA)
- Migratory Bird Treaty Act
- Endangered Species Act
- Hazardous Materials Transportation Act (HMTA)

The Director of the Mineral Reservation Estate would select, with approval from the Tribal Council, a qualified manager as Environmental and Safety Manager. The Environmental and Safety Manager shall be a qualified engineer (environmental engineer, petroleum engineer, mechanical engineer, safety engineer, chemical engineer, etc.), with a college degree(s) in environmental management, waste management, environmental engineering, safety engineering, petroleum engineering, mechanical engineering, or another environmental degree, and with experience in the hydrocarbon industry in environmental compliance and waste management in exploration, drilling and production operations. The Environmental and Safety Manager will report to the Director of the Mineral Reservation Estate. Monthly and annual reports will be submitted to the Director on the activities conducted by the Environmental and Safety Section.

The Environmental and Safety Manager will undergo a 2-year training period during the transition before assuming full managerial responsibility.

The Environmental and Safety Manager and staff will be responsible for reviewing the duties, responsibilities, functions, and activities of the Environmental and Safety Section to identify gaps that need to be filled with new policies and/or regulations for environmentally safe exploitation of natural gas, oil, and other minerals under the Mineral Reservation Estate. The Environmental and Safety Manager will review duties of the staff of the Environmental and Safety Section to determine whether additional qualified staff members are needed to perform duties in the oversight of environmental compliance field operations. Additional qualified members of the Tribe will be employed as needed to perform field inspection duties. An archeologist will be employed to evaluate archeological surveys performed by lessees on new leases and before starting new construction on existing leases. Archeological review by the Environmental and Safety Department is a new function with a new position created under new management of the Tribal Mineral Reservation Estate. The safety inspection and regulation enforcement function is a new function with new positions created under new management of the Mineral Reservation Estate (Figure 8). The Environmental and Safety Manager will supervise writing of environmental and safety regulations at least as stringent as federal environmental regulations for adoption and approval by the Director, Tribal Council, and EPA. The Environmental and Safety Manager will recommend the amount of fines and penalties to be assessed on lessees found in violation of regulations for approval by the Tribal Council for implementation. If hearings are needed to settle violations, a hearing panel will be formed under the leadership of the Director, with the Environmental and Safety Manager, the Field Manager, and Engineering Manager representing the Estate, and one additional member on the panel to be elected for a 2-year term by the lessees on the Estate. All decisions by the panel will be final. The list of fines for violations will also be mailed to all natural gas and oil operators on the Osage Mineral Reservation Estate. The Environmental and Safety Manager will be responsible for implementation and enforcement of all new and existing environmental policies and regulations for exploitation operations for natural gas, oil, and other minerals on the Mineral Reservation Estate.

Duties to be performed by the Environmental and Safety Section are:

- Police field operations to see that lessees are complying with Federal regulations and lease terms.
- Inspect terminated leases to be sure lessee has performed necessary cleanup operations prior to releasing bonds.
- Issue plugging instructions and witness plugging operations on all wells as required.
- Issue permits with construction requirements for protection of groundwater for well drilling, saltwater disposal wells, waterflood injection wells, and plugging wells, as applicable.
- Witness mechanical integrity testing (MIT) on saltwater disposal wells and waterflood injection wells.

- Inspect all leases for compliance with all regulations to prevent contamination of surface owner property, surface waters, and groundwater by hydrocarbons and/or saltwater.
- Issue compliance violation warnings and citations to lessees found in violation of regulations.
- Coordinate saltwater injection and disposal activities.
- Review cementing records and witness cementing operations, as deemed necessary.
- Review well stimulation records and charts for pressures, and witness these operations, as deemed necessary.
- Inspect all saltwater disposal wells and waterflood injection wells for injection pressures to determine whether formation fracture pressure is being exceeded.
- Issue citations to lessees exceeding formation-fracture pressure in injection operations.
- Evaluate archeological surveys performed by lessees on all new leases prior to beginning drilling operations and on all new construction on existing leases. The entire 160-acre lease should be surveyed for evidence of archeological sites before beginning operations so no additional survey will be needed during the terms of the lease.
- Issue a list of all safety regulations and policies to all lessees on the Mineral Reservation Estate.
- Implement safety regulations and policies adopted by the Mineral Reservation Estate on leases where operations for exploiting natural gas, oil, and other minerals are being conducted.
- Inspect and enforce safety regulations and policies on all leases on the Mineral Reservation Estate.
- Issue warning citations and violation citations to operators on leases who are in violation of Mineral Reservation Estate safety regulations and policies.
- Conduct training for safety and field personnel employed by the Mineral Reservation Estate.

2.2.5 Leasing Manager

The Director of the Tribal Mineral Reservation Estate would select, with approval from the Tribal Council, a qualified manager as Leasing Manager. The Leasing Manager shall be a qualified manager (petroleum land manager, attorney, etc.) with experience in the hydrocarbon industry in leasing land (minerals) for exploitation of natural gas, oil, and other minerals. The Leasing Manager will report to the Director of the Mineral Reservation Estate. Monthly and annual reports will be submitted to the Director on the activities conducted by the Leasing Section. The existing staff of the Leasing Section employed by the BIA will be considered for the appropriate positions in the Mineral Reservation Estate; vacancies will be filled, if possible, by

qualified members of the Tribe (Figure 9). The Leasing Manager will undergo a 2-year training period during the transition before assuming full managerial responsibility.

The Leasing Manager will be responsible for reviewing the duties, responsibilities, functions, and activities of the Leasing Section to identify gaps that need to be filled with new policies and/or regulations for leasing minerals for exploitation of natural gas, oil, and other minerals under the Mineral Reservation Estate. The Leasing Manager will review duties of the staff of the Leasing Section to determine whether additional qualified staff members are needed to perform duties of this section. Additional qualified staff will be employed and trained as needed. The Leasing Manager is responsible for developing procedures for more efficient oversight and implementations of policies and regulations that exist and will be developed in the future. Policies and/or regulations to fill gaps will be written and submitted to the Director and the Tribal Council for approval and implementation when the Leasing Manager assumes full responsibility for management of the Leasing Section.

Duties to be performed by the Leasing Section are:

- Receive and review natural gas and/or oil nominations from prospective lessees and prepare lease sale bulletins.
- Issue natural gas, oil, and other mineral leases and permits.
- Process lease assignments, bonds, and other pertinent papers.
- Review lease terms and initiate paperwork to cancel or terminate leases for failure to pay rental or maintain production.
- Review gas contracts.
- Maintain all lease records and files pertaining to mineral operations.
- Print forms used by the Osage Mineral Reservation Estate.

2.2.6 Administration Manager

The Director of the Tribal Mineral Reservation Estate will select, with confirmation by the Tribal Council, a qualified manager as Administration Manager. The Administration Manager shall be a qualified manager (accountant, MBA, economist, etc.) with experience in the hydrocarbon industry in accounting principles and methods, procurement, finance, economics, personnel management, etc. for exploitation of natural gas, oil and other minerals. The Administration Manager will report to the Director of the Tribal Mineral Reservation Estate. Monthly and annual reports will be submitted to the Director on the activities conducted by the Administration Section. For example, the existing staff of the Administration Section employed by the BIA will be considered for the appropriate positions in the Osage Mineral Reservation Estate; vacancies will be filled, if possible, by qualified members of the Osage Tribe (Figure 10). The Administration Manager will undergo a 2-year training period during the transition before assuming full managerial responsibility.

The Administration Manager will be responsible for reviewing the duties, responsibilities, functions, and activities of the Administration Section to identify gaps that need to be filled with new policies for money management of income from exploitation of natural gas, oil, and other minerals on the Tribal Mineral Reservation Estate. The Administration Manager will review duties of the staff of the Administration Section to determine whether additional qualified staff members are needed to perform the duties of this section. A personnel supervisor, a procurement specialist, and a training specialist will be added to this section under the new management of the Tribal Mineral Reservation Estate. Additional qualified staff will be employed and trained as needed. The Administration Manager is responsible for developing procedures for more efficient oversight and implementation for income, money management, accounting practices, distribution of annual income, etc. that exist and will be developed in the future. Policies to fill gaps will be written and submitted to the Director and Tribal Council for approval and implementation when the Administration Manager assumes full responsibility for management of the Administration Section.

Duties to be performed by the Administration Section are:

- Maintain records of natural gas, oil and other minerals production and income. Verify that production reported is correct and accounted to the proper lease.
- Survey all purchasers of natural gas, oil and minerals on the Mineral Reservation Estate on a monthly basis for determination of the highest posted price for each mineral on a daily basis for calculation of royalty payments due to the Estate by lessees.
- Determine additional royalties due and collect them.
- Maintain data input for IRMS program.
- Assess and collect fines for violation of environmental regulations on the Mineral Reservation Estate.
- Collect all permit fees for drilling, saltwater injection well annual rental, disposal and injection wells, etc.
- Manage all income from natural gas, oil, and other minerals for maximum growth for the benefit of the Mineral Reservation Estate.
- General accounting for the Mineral Reservation Estate.
- Collect monthly and/or annual royalty payments from sales of natural gas, oil, and other minerals by lessees on the Mineral Reservation Estate.
- Payroll of the Mineral Reservation Estate.
- Distribute royalties from the Mineral Reservation Estate to qualified members of the Tribe.
- Procure supplies, vehicles, office equipment, etc. for the Mineral Reservation Estate.
- Maintain personnel records, personnel benefits records, personnel supervision, etc.
- Train personnel employed by the Estate.

2.3 Proposed Salary Schedule

The FY95 salary schedule for the BIA in Pawhuska, Oklahoma, was used as the model for the proposed salary schedule in Table 1 and for the example budgets shown in Figures 11 to 13.

Table 1 Proposed Salary Schedule for the Tribal Mineral Reservation Estate	
Position	Annual Salary
Director	\$96,000
Engineering Manager	72,000
Field Manager	72,000
Environmental and Safety Manager	72,000
Leasing Manager	72,000
Administration Manager	72,000
Reservoir Engineers (2)	96,000
Petroleum Engineers (2)	96,000
Geologists (2)	96,000
Engineering Technicians (4)	72,000
Geological Technicians (2)	36,000
Drafting Technician	18,000
Supervising Engineering Technician	30,000
Field Engineering Technicians (12)	216,000
Environmental Engineers (5)	180,000
Environmental Technicians (5)	90,000
Archeologists (2)	72,000
Archeological Technicians (2)	36,000
Land Persons (5)	180,000
Land Clerks (5)	90,000
Accountants (3)	108,000
Bookkeeping Clerks (5)	90,000
Safety Engineers (10)	300,000
Administrative Assistant	24,000
Secretaries (6)	108,000
Total Annual Payroll	\$2,394,000

3.0 THE RESERVATION ESTATE OIL AND GAS COMPANY

3.1 Proposal for Management and Administration

As an integral part of the Native Tribes Initiative, a vertically integrated natural gas and oil company (the Company) has been designed to be incorporated and funded separately from a Mineral Reservation Estate. Organization and staffing of the Company will be accomplished in three phases to become fully operational (Figures 1–3). The Company will engage in natural gas and oil exploration, exploitation, production, gas gathering, gas processing and hydrocarbon sales operations on Native Tribe's Mineral Reservation Estate at the start and other areas later. These operations will generate additional income for the Tribal Mineral Reservation Estate and increase natural gas and oil production. Management and staff of the Company will have a 2.5-year transition period (Figure 5). For example, a Tribal Council would appoint a Board of Directors, who would employ a qualified President, who will select qualified managers for the Administration, Production, Environmental and Safety, Exploration, Processing, and Marketing departments. Each of the departments will select qualified staff members. The President reports to the Board of Directors, and the department managers report to the President. During the training and transition period, consultants would be used for organizing the Company and for advice on exploration, production, enhanced oil recovery research, gas gathering, gas processing, and sales.

After the establishment of a Board of Directors, the Board would then select a qualified President to manage the newly incorporated, fully integrated natural gas and oil exploration and production company. The Company will be financed and operated without risking the assets of the Tribal Mineral Reservation Estate. The President will report all pertinent activities (leasing, production, sales, accounting, etc.) to the Board of Directors on a monthly basis and in an annual report at the end of each fiscal year. Management of daily activities for the Production, Environmental and Safety, Administration, Exploration, Processing, and Marketing departments will be performed by department managers reporting to the President. The Company will be staffed in three phases and become fully operational during phase 3 (Figures 1–3, 5). Department managers will submit monthly and annual reports to the President on activities of their departments.

3.2 Management Responsibilities

3.2.1 President of the Tribal Mineral Reservation Estate Oil and Gas Company

The President of the Tribal Mineral Reservation Estate Oil and Gas Company would be responsible for managing and directing natural gas and oil exploration and production for profit in environmentally safe operations and in the most prudent and efficient manner as practical. The Board of Directors will employ a qualified President (geologist or petroleum engineer) with experience in hydrocarbon exploration, drilling and production operations, and experience in start-up operations of an independent exploration and production company. Exploration and production operations will be conducted, for example, on the Osage Mineral Reservation Estate in Osage County, Oklahoma, until such time when the Company has sufficient income and experience to explore for hydrocarbons outside the Estate. The Osage Mineral Reservation Estate covers an area of approximately 1,470,000 acres. There are currently approximately 2700 leases on 432,000 acres on the Estate. Approximately 71% or 1,038,000 acres are not under lease. Therefore, sufficient acreage is available on the Estate for evaluation for exploration, exploitation, primary production, secondary production, and enhanced oil recovery to provide drilling prospects for several years. The incorporation of a new company for hydrocarbon exploration and production will impact employment in Osage County and northeastern Oklahoma, generating income and employment for Tribal members and the community.

A qualified President will be selected by the Board of Directors during the first phase of the start-up (Figure 5). The President of the Company will develop management strategies and policies for generating income and growth by natural gas and oil exploration, production, gathering, processing, and sales. During FY-95, the President will develop plans, subject to approval by the Board of Directors, for employing qualified personnel to staff each of the department managers positions and to staff each of the departments. During Phase 1, managers for the Production, Environmental and Safety, and Administration departments will be employed (Figure 1). The Board of Directors and the President will develop strategies for financing the Company to conduct natural gas and oil exploration, drilling, production, gathering, processing, and sales operations on the Tribal Mineral Reservation Estate without risking assets of the Estate in the process. The President will make monthly and annual reports on activities of the Company to the Board of Directors.

3.2.2 Production Manager

In the second quarter after start-up, the President will select a qualified manager (petroleum engineer, mechanical engineer, etc.) for the Production Department with industry experience in management of operations in natural gas and oil exploration, drilling, production, gathering, and processing for an independent company and/or as an independent (Figures 5, 14). The person selected for Production Manager would have experience in the region of the Tribal

reservation. For example, the Osage tribe would select a candidate whose experience is in the Mid-Continent (Oklahoma and Kansas), preferably in northeastern Oklahoma. The Production Manager will oversee drilling and production research activities conducted by a consultant during phases 1 and 2 of start-up operations until the Company assumes full operational responsibility in phase 3 (Figures 14–16). The Production Manager would develop strategies and policies for natural gas and oil drilling, production, gathering and processing on the Tribal Mineral Reservation Estate. These strategies and policies will be submitted to the President for approval and implementation. During phase 2 of start-up operations, the Production Department will be staffed with petroleum engineers, geologists, a land person, and field personnel as needed (Figure 15). During phase 3, all natural gas and oil exploration and land leasing activities will be assumed by the Exploration Department (Figures 16, 23).

The Production Department will conduct reservoir studies, keep wells in producing condition, maintain field storage facilities, supervise drilling, etc. The number of qualified petroleum engineers, production and drilling superintendents, foremen, pumpers and gaugers needed for drilling, production, gathering and processing of natural gas and oil on the Estate will be submitted to the President for approval. Qualified members of the Tribe will be employed, if possible. The Production Department will assume full responsibility for operations in the final phase.

Duties of the Production Department are:

- Prepare Authorizations for Expenditure (AFE) for all drilling wells and construction on all leases.
- Supervise staking of all new well locations.
- Supervise all construction on leases in compliance with environmental and safety regulations and policies.
- Supervise clearing and preparation of all new well locations.
- Supervise all drilling and completion operations on exploration and development wells.
- Maintain of all producing wells, equipment, and lease facilities.
- Gauge all production storage facilities.
- Witness all transfers of oil from oil storage tanks to purchases.
- Conduct reservoir engineering studies to achieve maximum recovery of natural gas and oil on producing leases.
- Supervise all well workover operations.
- Supervise all well plugging operations.
- Conduct mechanical integrity testing (MIT) on all injection and/or disposal wells on all leases.
- Maintain clean leases and good relations with land owners.

- Work closely with the Exploration Department on objectives, drilling depths, etc. to get accurate well cost estimates and maintain economical operations.
- Select all production equipment for producing leases.
- Design producing facilities, waterflood operations and enhanced oil recovery facilities, drilling programs, etc.

3.2.3 Environmental and Safety Manager

The President will select a qualified manager to assume duties of Environmental and Safety Manager. The Environmental and Safety Manager shall be a qualified manager (environmental engineer, safety engineer, petroleum engineer, mechanical engineer, chemical engineer, etc.), with a college degree(s) in environmental management, waste management, environmental engineering, safety engineering, petroleum engineering, or mechanical engineering or with another environmental degree, and with experience in the hydrocarbon industry in environmental compliance, safety, and waste management in exploration, drilling, and production operations. The Environmental and Safety Manager will report to the President of the Company. Monthly and annual reports will be submitted to the President on the activities conducted by the Environmental and Safety Department. This position will be filled during the phase 1 (Figure 17).

The Environmental and Safety Department also will have the responsibility for conducting an archeological survey on each new lease and before drilling and/or production operations are started. Therefore, a qualified archeologist with experienced in conducting surveys on Native American Tribal lands will be employed. A safety engineer will be employed to conduct safety meetings and ensure that all operations are in compliance with all safety regulations. The Environmental and Safety Department will be staffed in three phases and assume full operational responsibility during phase 3 of start-up operations (Figures 17–19).

Federal environmental regulations that impact natural gas and oil exploration, drilling, and production operations are:

- Resource Conservation and Recovery Act (RCRA)
- Safe Drinking Water Act (SDWA)
- Clean Water Act (CWA)
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
- Superfund Amendments and Reauthorization Act (SARA)
- Clean Air Act (CAA)
- Toxic Substances Control Act (TSCA)
- Oil Pollution Act of 1990 (OPA)
- Migratory Bird Treaty Act
- Endangered Species Act
- Hazardous Materials Transportation Act (HMTA)

During the phase 1 of start-up operations, the Environmental and Safety Manager will be responsible for reviewing the duties, responsibilities, functions and activities of the Environmental and Safety Department and staffing requirements. Qualified members of the Tribe will be employed, if possible, as needed to perform and/or assist in archeological surveys of leases of the Company. The Environmental and Safety Manager is responsible for developing field environmental compliance procedures and policies for the Company. During phase 2, the Environmental and Safety Manager will be responsible for implementation of all Company environmental procedures and policies. The Environmental and Safety Department will be fully staffed by the final start-up phase.

Duties to be performed by the Environmental and Safety Department are:

- Police field operations to see that the Company is complying with Federal regulations and lease terms.
- Inspect terminated leases to be sure that the Company has performed necessary cleanup operations prior to abandonment of the lease.
- Witness plugging of all wells.
- Design environmentally safe construction requirements in conjunction with the Production Department for facilities on all leases.
- Witness mechanical integrity testing (MIT) on saltwater disposal wells and waterflood injection wells.
- Inspect all leases for compliance with all regulations to prevent contamination of surface owner property, surface waters and groundwater by hydrocarbons and/or saltwater.
- Review cementing records and witness cementing operations in conjunction with the Production Department as deemed necessary for protection of groundwater.
- Review well stimulation records and charts for pressures and witness these operations, as deemed necessary to prevent contamination of groundwater.
- Inspect all saltwater disposal wells and waterflood injection wells for injection pressures to determine whether formation fracture pressure is being exceeded.
- Write and maintain spill prevention control and countermeasures (SPCC) plans for all producing leases.
- Conduct archeological surveys on all new leases prior to beginning drilling operations and on all new construction on existing leases. The entire 160 acre lease should be surveyed for evidence of archeological sites before beginning operations so no additional survey will be needed during the terms of the lease.
- Conduct monthly safety meetings for office and field personnel.
- Implement safety regulations and policies adopted by the Company on leases where operations for exploiting of natural gas, oil and other minerals are being conducted.

- Inspect and enforce safety regulations and policies on all leases of the Company.
- Conduct training for safety and field personnel employed by the Company.

3.2.4 Administration Manager

The President will select a qualified manager as Administration Manager. The Administration Manager shall be a qualified manager (personnel or human resources management, MBA, business management, economics, finance, etc.) with experience in the hydrocarbon industry in managing a personnel department. The Administration Manager will report to the President of the Company. Monthly and annual reports will be submitted to the President on the activities conducted by the Administration Department. This position will be filled during the phase 1 , and the department will be fully staffed with qualified personnel during phase 3 of start-up operations. Staffing of the Administration Department will be in three phases (Figures 20–22).

During phase 1 of start-up operations, the Administration Manager will be responsible for writing employment policies and procedures, preparing job descriptions for the various departments, selecting insurance plans for the Company, etc. and submitting these to the President for approval. The Administration Manager is responsible for developing procedures for efficient personnel management and training.

Duties to be performed by the Administration Department are:

- Evaluate insurance plans for adoption by the Company.
- Write job descriptions for all positions in the Company.
- Maintain personnel records on all employees.
- Design annual personnel evaluation forms.
- Procure supplies, vehicles, office equipment, etc. for the Company.
- Maintain personnel records, personnel benefits records, personnel supervision, etc.
- Train personnel employed by the Company.
- Work with the President and the Board of Directors to develop plans for financing natural gas and oil exploration, drilling, production, gathering, and processing operations in the start-up operation and in an ongoing operation.
- Maintain records of natural gas and oil production and income. Verify that production reported is correct and accounted to the proper lease.
- Negotiate with purchasers for highest posted price on all sales.
- Payroll distribution and records.
- Pay the Tribal Mineral Reservation Estate for all permit fees, lease rentals, fines, etc.
- Manage all income from natural gas and oil for maximum growth for the benefit of the Company and shareholders.

- General accounting and distribution of dividends to shareholders
- Pay all monthly billing statements.
- Pay royalties to the Tribal Mineral Reservation Estate.
- Work with the Production and Exploration departments to gather data for calculating economics for all operations on an ongoing basis.

3.2.5 Exploration Manager

The position of Exploration Manager will be phased into the Company organization during phase 2, after hydrocarbon production has been established (Figure 23). At that time, the President will select a qualified Exploration Manager (geologist or geophysicist) with industry experience directing natural gas and oil exploration for an independent company and/or as an independent. The person selected for Exploration Manager will have exploration and production experience in the operating region. The Exploration Manager will develop strategies and policies for natural gas and oil exploration and exploitation on the Tribal Mineral Reservation Estate. These strategies and policies will be submitted to the President for approval and implementation. The number of qualified geologists and geophysicists needed for exploration, exploitation, and drilling on the Estate will be submitted to the President for approval. Staffing of the Exploration Department will begin in phase 2, and the department will assume full responsibility for conducting natural gas and oil exploration and exploitation activities on the Estate during the final phase (Figure 23).

The Exploration Manager, with the approval of the President, will decide on locations for drilling. Locations chosen for drilling for natural gas and oil will have high potential for finding commercial production and generating income for the Company. Geologists and geophysicists under the supervision of the Exploration Manager will conduct mapping and well-site activities. They will be under the direct supervision of the Exploration Manager. The Exploration Manager will submit a list of office and field equipment necessary to perform natural gas and oil exploration and exploitation to the President for approval.

Duties of the Exploration Department are:

- Conduct subsurface geological mapping in search of structural, stratigraphic, and combination hydrocarbon traps using geological formation tops and/or seismic data.
- Oversee 2-D and 3-D seismic data collection and processing.
- Conduct 2-D and 3-D seismic interpretation and mapping.
- Conduct reservoir mapping for development of newly discovered natural gas and oil resources, extension of producing fields, and exploitation of remaining resources in abandoned fields.
- Conduct regional stratigraphic studies leading to natural gas and oil exploration and exploitation prospects.

- Conduct well-site geology while wells are drilling and during logging operations.
- Construct lithology logs from samples described while on well site and from sample descriptions on file in the office of the Tribal Mineral Reservation Estate.
- Reservoir characterization for field implementation of waterflood operations and enhanced oil recovery processes.
- Map all producing reservoirs and potentially producing reservoirs in all fields on the Tribal Mineral Reservation Estate.
- Select acreage for leasing on the Tribal Mineral Reservation Estate.
- Select locations for drilling on acreage leased by the Company on the Tribal Mineral Reservation Estate.
- Accompany surveyors when all Company wells are being staked in the field.
- Oversee contractors performing geological and/or geophysical consulting for the Company.
- Take natural gas, oil, and mineral leases on open acreage on prospective areas recommended by the Exploration Department and approved by the President.
- Process lease assignments, bonds and other pertinent papers.
- Pay annual rental on non-productive leases.
- Review gas contracts.
- Maintain all lease records and files pertaining to mineral operations.
- Purchase and/or have pertinent forms printed as needed.

3.2.6 Processing Manager

The President will select a qualified manager as Processing Manager. The Processing Manager shall be a qualified manager (chemical engineer, petroleum engineer, chemist, etc.) with experience in the hydrocarbon industry processing natural gas or in refining. The Processing Manager will report to the President of the Company. Monthly and annual reports will be submitted to the President on the activities conducted by the Processing Department. This position will be filled during phase 2 or earlier if a gathering system and gas processing plant will be in place and staffed with qualified personnel (Figure 24).

The Processing Manager will be responsible for determining the personnel needed for this department and writing processing procedures and policies of the Company and submitting these to the President for approval. The Processing Manager will submit staff qualifications and numbers needed to perform all functions of the Processing Department. Qualified staff will be employed and trained as needed.

Duties to be performed by the Processing Department are:

- Gathering natural gas on the Estate.
- Processing natural gas gathered on the Estate.
- Distribution of processed natural gas and natural gas liquids.

3.2.7 Marketing Manager

The President will select a qualified manager as Marketing Manager. The Marketing Manager shall be a qualified manager (MBA, business, etc.) with experience in the hydrocarbon industry in marketing natural gas, natural gas liquids, and oil. The Marketing Manager will report to the President of the Company. Monthly and annual reports will be submitted to the President on the activities conducted by the Marketing Department.

The Marketing Manager will be responsible for determining the personnel needed for this department and writing marketing procedures and policies of the Company and submitting these to the President for approval. The Marketing Manager will submit staff qualifications and numbers needed to perform all functions of the Marketing Department. Qualified staff will be employed and trained as needed.

Duties to be performed by the Marketing Department are marketing natural gas, natural gas liquids, and oil of the Company.

3.3 Proposed Salary Schedule

The FY95 salary schedule for the BIA in Pawhuska, Oklahoma, was used as the model for the proposed salary schedule in Table 2.

Table 2 Proposed Salary Schedule for the Reservation Estate Oil and Gas Company

Position	Annual Salary
President	\$96,000
Production Manager	72,000
Environmental and Safety Manager	72,000
Administration Manager	72,000
Exploration Manager	72,000
Processing Manager	72,000
Marketing Manager	72,000
Geologists (2)	96,000
Geophysicists (2)	96,000
Geophysical Technicians (3)	54,000
Technicians/Draftspersons (2)	36,000
Reservoir Engineer	48,000
Petroleum Engineers (2)	96,000
Engineering Technicians (2)	36,000
Production Superintendent	30,000
Drilling Forman	30,000
Pumper/Gauger as needed	18,000
Land Person	36,000
Land Clerk	18,000
Environmental Engineer	36,000
Environmental Technician	18,000
Archeologist	36,000
Archeological Technician	18,000
Safety Engineer	36,000
Safety Technician	18,000
Personnel Clerks (2)	36,000
Accountant	36,000
Bookkeeping Clerk	18,000
Administrative Assistant	24,000
Secretaries (7)	126,000
Total Annual Payroll	\$1,524,000

4.0 CONCLUSIONS

These plans can be accomplished in a 2-year training and transition period with cooperation and guidance of the Tribal Council by the Department of Energy, Bureau of Indian Affairs, Environmental Protection Agency, and Occupational Safety and Health Administration. The Tribal Council and the Director of the Tribal Mineral Reservation Estate will adopt and implement existing policies and fill gaps with new policies for efficient management of the Estate. The President of the natural gas and oil exploration and production company, with approval of the Board of Directors of the Company, will make plans for financing and managing operations of the Company. The purpose of the integrated company is to increase income for the Tribal Mineral Reservation Estate and shareholders by exploitation of natural gas and oil on Mineral Reservation Lands.

APPENDIX A

PROCEDURE FOR CONTRACTING BETWEEN THE OSAGE TRIBAL COUNCIL AND THE BUREAU OF INDIAN AFFAIRS

Regulations for making applications for contracts between any tribal organization and the Bureau of Indian Affairs (BIA) are contained in 25 CFR, Part 271 - Contracts Under Indian Self-Determination Act. Subpart B - Application Process, §271.11 states that before the BIA can enter into a contract with a tribal organization, it must be requested to do so by the Indian tribe or tribes to be served by the contract in accordance with §271.18, Tribal Request for Initial Contract.

Before the BIA can enter into a contract with a tribal organization, it must be requested to do so by the tribe to be served under the contract. The tribe's request shall be in the form of a resolution by the tribal governing body. A tribal governing body may pass a single resolution authorizing a tribal organization to apply for, negotiate, and execute more than one contract if the resolution specifies for each contract the same information required in paragraphs §271.18 (b) and (c).

Paragraph (b) states that the resolution of the tribal governing body shall authorize the applicant tribal organization to apply for, negotiate, and contract with the BIA, subject to the specific terms, conditions, and limitations of the resolution and applicable tribal laws, codes, and regulations. The resolution shall include the results of the vote (the number for and against), the date the resolutions was approved, and signature of the person authorized to certify the accuracy of the information contained in the resolution. If the contract application is for all or part of the Indian Action Team program and the tribal governing body elects to submit the application through the Indian Technical Assistance Center, instead of through the Agency, this choice shall be indicated in the resolution.

Paragraph (c) states that the tribal governing body request (resolution) should include the following.

When the tribal organization is the tribal governing body:

- A brief statement of the contract scope.
- The tribal official authorized to negotiate the contract and any amendments thereof.
- The tribal official authorized to execute the contract and any amendments thereof.
- The expiration date of the authorities granted by the resolution.

- The extent and procedures, if any for review of the contract and any amendments thereto by the tribal governing body before execution.
- The proposed date for contract commencement.
- The proposed terms of the contract.

When the tribal organization is other than the tribal governing body:

- The name of the tribal organization.
- A brief statement of the contract.
- The extent and procedure of review by the tribal governing body of the contract and any amendments thereto prior to execution by the tribal organization.
- The tribal office or official to which the BIA should send copies of contract documents and correspondence.
- The proposed term of the contract.
- The proposed date of contract commencement.
- Any delegations of authority and any limitations on authorities granted the tribal organization, including those in regard to:
 - Access to BIA records under §271.16. Unless specified otherwise in the tribal resolution under this section or in a subsequent resolution, a tribal organization which is not the governing body of an Indian tribe is required to seek access to BIA records through the tribe's chairman or other official(s) designated by the tribal governing body.
 - Recontracting under §271.20.
 - Requests to revise or amend a contract under §271.71 and §271.72.
 - Requests for contract retrocession under §271.71 and §271.72.
 - Right to appeal under §271.81 and §271.82.
 - Requests for waivers of the regulations in this chapter under §271.15.
- The expiration date of the authorities granted by the resolution. If applicable, a statement that the authorities granted continue until revoked by the tribal governing body will be sufficient.
- Any procedures given in this section concerning the manner in which a tribal governing body passes a tribal resolution shall apply except where inconsistent with the tribe's organic documents or, in the absence of such organic documents, the tribal practice.

Section 271.13 states that application instructions and related materials may be obtained from Superintendents, Area Directors, and the Commissioner. Contents of a contract applications are contained in §271.14. Application for a contract under this part shall contain the following information in sufficient detail to permit evaluation of the

application in light of the declination criteria set forth in §271.15. No further detail is, or shall be required.

- Full name, address, and telephone number of the tribal organization which is applying for the contract.
- Full name of tribe(s) with which the tribal organization is affiliated.
- Full name of tribe(s) directly benefiting or receiving services from the proposed contract.
- Documentation of the tribal request to contract as required in §271.18.
- Date of submission to the BIA and the name of the office where the application was submitted.
- Signature by the authorized representative of the tribal organization and the date thereof.
- Estimated number of Indian people who will receive benefits or services from the contract, based on available data including tribal records.
- Descriptive narrative of what functions, BIA programs, or portions of programs the tribal organization wants to contract for.
- Plan of operations, which shall include but is not limited to:
 - A statement of tribal goals and objectives to be obtained by the contract.
 - The organization, methods and procedures to be used to accomplish the tribal goals and objectives.
 - The budget showing the amount and sources of funding and other resources required for the contract.
 - Staffing plan, including extent, if any, that BIA personnel may be used. (Part 275 of this chapter gives staffing options the applicant may wish to consider).
 - The evaluation criteria and control systems that the tribal organization will use to measure progress and accomplishment and to assure that the quality and quantity of actual performance conforms to the requirements of the plans.
 - Statement of tribal organization's substantive knowledge of the program, part of a program, or functions to be contracted.
 - Description of personnel system and position descriptions for key personnel.
 - Listing of equipment, facilities, and buildings needed to carry out the contract and how the tribal organization intends to obtain them.
- Certification by a licensed accountant that the bookkeeping and accounting procedures which the tribal organization presently uses meet the standards of §276.7 of this chapter. In place of the certification; the tribal organization may submit a written agreement to establish a bookkeeping and accounting system that meets the

standards of §276.7 of this chapter and to have the bookkeeping and accounting system certified before the BIA disburses any funds under a contract awarded as a result of the application. The accounting system shall provide for the accumulation of costs throughout the contract term or performance period in such a manner as to facilitate audit or review of the financial records. When a certification has been submitted in connection with a previous application, the application may state this fact instead of submitting a new certification.

- Proposed system for managing property and keeping records or agreement to establish with 90 days of contract execution, a satisfactory system for managing property and keeping records.
- Any advance payments required by the tribal organization for contract including the type of advance, time period, and justification for the advance payments.
- Term of contract requested and proposed starting date of contract.
- A listing of the procedures which the applicant has in place to assure that services and assistance shall be provided to the Indians affected by the contract in a fair and uniform manner. If the applicant does not have such procedures but agrees to establish them, a statement to that effect should be included in the application. Such procedures include eligibility criteria for tribal members to receive services, record keeping adequate to verify the fairness and uniformity of services in case of formal complaints, an adequate complaint procedure available to all Indians affected, and an explanation of what rights an individual will retain pending resolution of a complaint.
- A statement that the applicant agrees to keep such records as required pursuant to §271.46, to make reports required by §271.49, and to make such information and reports available to Indian clients as required by §271.48.
- Identification of any subcontractor(s); the amount and purpose of the subcontract; the manner in which the subcontractor was selected; and the basis for the cost of the subcontract. If a subcontract has not yet been awarded the contract applicant should include a statement that the applicant agrees to comply with 41 CFR 14H-70.409 in awarding any subcontracts; except that in the case of a tribal organization applying for a contract under §273.11 the statement should be that the applicant agrees to comply with §273.36 in awarding any subcontracts.

In §271.33, there are additional contents for applications. In addition to the information required in §271.14, the following additional information shall be included in the contract application when a trust resource or responsibility is involved:

- A statement of the impact of proposed activity on trust resources related to:
 - Maintenance of inventory levels and values to tribes and to individuals; and
 - Income to individuals and tribe. The statement must also demonstrate a thorough assessment of the trust resources issues, positive steps to protect the trust

resources, provisions that limit or eliminate potential for conflicts-of-interest, and that no delegation of trust responsibility is requested.

- A statement of the special skills and qualifications required of personnel attached to program activity impacting on trust resources and trust responsibility.

Requirements for submission of requests to contract are contained in §271.21. Tribal requests to contract and contract applications shall be submitted to the BIA as follows:

- To the Superintendent when the tribe(s) or Indians to be served by the contract are within the jurisdiction of that agency office. However, whether in the past they have been submitted to the Superintendent, Area Director, or the Commissioner, tribal requests and the related applications to contract for all or part of the Indian Action Team program may be submitted to the Chief, Indian Technical Assistance Center, at the option of the tribal governing body when so indicated in its resolution pursuant to §271.18(b). All tribal requests and the related applications to contract for all or part of the contraction, Building and Utilities program which is contractible under this part and which is within the responsibility of the Division of Facilities Engineering must be submitted to the Chief, Division of Facilities Engineering, instead of to the Superintendent, Area Director, or Commissioner.
- To the Area Director when the tribe(s) or Indians to be served by the contract are within the jurisdiction of more than one Agency office in the same BIA Area.
- To the Commissioner when the tribe(s) or Indians to be served by the contract are within the jurisdiction of more than one Area Office.
- An application for a contract under this part may be submitted at any time. However, when the proposed contract may result in the displacement of BIA personnel, the application must be submitted to the appropriate BIA office at least 120 days before the contract's proposed starting date so the BIA can comply with all Civil Service Commission requirements which apply to separation and/or reassignment of Federal employees. If these required actions can be completed in less than 120 days, the contract may begin at an earlier date.

Requirements for review and action by the Superintendent are in §271.22. The Superintendent shall take the following actions after receiving the contract application:

- Within five days of receipt, the Superintendent shall notify the applicant and the tribal governing body, if different from the applicant, that the application was received.
- Within 15 days of receipt, the Superintendent shall review the application for completeness and request any additional information from the applicant or from the requesting tribe that is needed to satisfy the requirements of §271.14. If the application involves contracting for all or parts of the Indian Action Team program, the Superintendent shall also contact the Chief of the Indian Technical Assistance

Center for the necessary information on funding. The funding information shall be obtained without sending the application to the Center.

- Within 30 days of receipt, the Superintendent shall review the application to determine whether funds are available at the Agency to finance the proposed contract, the effect of services to be provided by the proposed contract, the effect of the proposed contract on other services or programs provided by the Agency, and whether any deficiencies exist which could possibly result in declination.

If funds are not available at the Agency to adequately finance the proposed contract without significantly reducing services under the noncontracted programs or parts of programs, the Superintendent shall so notify the applicant in writing and offer alternative solutions to the funding problem. The applicant may propose alternative solutions to solve the funding problem. Upon receiving written notice of the applicant's choice of alternative(s), the Superintendent shall determine whether the alternative(s) chosen will solve the funding problem. If the applicant's choice of alternative(s) is sufficient to solve the funding problem, or is the solution involves reprogramming which requires Congressional action, the Superintendent shall take the action in paragraph (c)(2), (d), or (e) of this section, as appropriate. If the applicant's choice of alternative(s) will not solve the funding problem, the applicant shall be notified in writing and will be asked to reconsider the matter and select another choice. After the applicant has reconsidered and notified the Superintendent in writing of its second choice of alternative(s), the Superintendent shall determine whether the applicant's choice is sufficient to solve the funding problem. If the Superintendent determines that the applicant's second choice of alternative(s) will not solve the funding problem, or if the applicant refuses to make a selection, the Superintendent will refer the funding problem to the Area Director for a decision. The Superintendent shall notify the applicant of the referral in writing. An additional 15 days shall be allowed for the Superintendent to try to resolve the funding problem. The alternatives offered by the Superintendent may include the following which can be used alone or in combination to solve the funding problem.

- The BIA may make available additional funds resulting from savings in other BIA programs, subject to established reallocation or reprogramming procedures.
- The tribe(s) may obtain grant funds under part 272 to cover any initial "start up" costs included in the proposal.
- The BIA may redesign or consolidate operations involving noncontracted programs or parts of programs.
- The tribe(s) may obtain additional funds from sources outside the BIA to supplement the BIA funds available to finance the proposal.
- The tribe(s) may accept lower service levels under the proposed contract or under the noncontracted programs or parts of programs, except where such lower levels are

inconsistent with the requirements of regulations or statutes, through reallocation or reprogramming of BIA funds.

- The tribe(s) may choose to withdraw the contract proposal and allow the BIA to continue to operate the program either as presently operated or as redesigned by the tribe(s).
- If funds are available at the agency to adequately finance the proposed contract without significantly reducing services under the noncontracted programs or parts of programs, the Superintendent shall make in writing to the applicant and the tribal governing body those recommendations which he determines are needed in order to avoid possible declination and shall indicate the technical assistance available from the Agency Office to correct any deficiencies. This action shall also be taken within 30 days after receiving the application.

The Superintendent shall provide the technical assistance offered in the written recommendation as requested by the tribal organization and tribal governing body.

The Superintendent shall forward the application to the Area Office with his comments and recommendations. The recommendations shall include:

- A statement of the availability of BIA equipment, facilities, and buildings requested in the application.
- A recommendation on who should be the Contracting Officer's Representative.
- A citation of funds to be charged.
- A certification of the amount of funds actually available for the contract. If the agency funds available are less than the amount requested in the application, the Superintendent must state his efforts and extent of his success or failure in resolving the funding problems.

The Superintendent shall forward the application and his comments and recommendations within the following time limits:

- Within 30 days after receiving the application when the Superintendent has no recommendations to make to the applicant.
- Within 10 days after making written recommendations to the applicant if the applicant does not respond, requests additional time in which to respond, or refuses the technical assistance offered.
- Within 15 days after receiving an application to contract for all or part of the Indian Action Team Program, the Chief, Indian Technical Assistance Center shall contact the Superintendent for the tribe(s) or Indians to be served by the contract concerning the availability of the equipment, facilities, and buildings requested in the application. This contract shall be made without sending the application to the Superintendent. The Chief, Indian Technical Assistance Center, shall then forward the application to

the Director, Office of Tribal Resources Development, with his comments and recommendations within the time frame prescribed.

- Within 15 days after receiving an application, to contract for all or part of the Construction. Building and Utilities Program, the Chief of the Division of Facilities Engineering shall contact the Superintendent for the tribe(s) or Indians to be served by the contract concerning the availability of the equipment, facilities, and buildings requested in the application. This contact shall be made without sending the application to the Superintendent. The Chief, Division of Facilities Engineering, shall then forward the application to the Director, Office of Administration, with his comments and recommendations within the time frame prescribed.

Requirements for review and action by the Superintendent are in §271.23:

- Upon receipt of a contract application submitted directly to the Area Director as provided for in §271.21, the Area Director shall obtain the appropriate Superintendent's recommendations within 10 days.
- Upon receipt of a contract application forwarded by a Superintendent, the Area Director will review the application and the Superintendent's recommendations and then proceed as required.
- After receiving an application to contract for all or part of the Indian Action Team Program and the comments and recommendations of the Chief, Indian Technical Assistance Center, on the application, the Director, Office of Tribal Resources Development, shall take all actions required of the Area Director.
- The Area Director shall notify the applicant and the tribal governing body, if different from the applicant, that the application was received within 5 days of its receipt.
- Within 30 days, the Area Director shall review the contract application, the recommendations of the Superintendent, any responses from the contract applicant or the tribal governing body, and the criteria or declination set forth in §271.15 to determine whether any declination of funding issues exist which must be addressed and at the completion of the review take one of the actions specified.
- The applicant will be notified in writing if the Area Director recommends that the proposed contract cannot be entered into because of the declination issues. The Area Director's recommendation may be appealed to the Commissioner, and the notice shall include a statement to that effect. The applicant shall have 30 days from receipt of notice of the Area Director's recommendation in which to exercise its appeal rights by providing the Area Director with a notice in writing to the effect. Upon receipt of notice of appeal and if an informal conference is requested, a conference shall be conducted by the Commissioner or by an official designated by him. The purpose of the informal conference will be to attempt to resolve issues without going through the formal hearing procedure. Interested parties, entitled to present their positions, shall be limited to authorized representatives of the BIA, the tribal organization, and the

tribal governing body(s). If the tribal organization and the tribal governing body(s) are not satisfied with the informal conference or do not request one, the tribal organization and the tribal governing body(s) are entitled to a formal hearing.

- If the contract application was submitted directly to the Area Director as provided in §271.21, or if the Superintendent has forwarded an application with funding problems which could not be resolved at the Agency level, the Area Director will also review the application to determine whether funds are available within the Area to finance the proposed contract, the effect of services provided by the proposed contract, on other services or programs provided by the Area and any deficiencies which could possibly result in declination. At the completion of the review, the Area Director will take one of the following actions as appropriate:
 - If funds are not available to adequately finance the proposed contract without significantly reducing services under the noncontracted programs or parts of programs, the Area Director shall so notify the tribal organization and the tribal governing body(s) in writing and offer alternative solutions to the funding problem. The tribal organization and tribal governing body(s) may also propose alternative solutions to solve the funding problem. Upon receiving written notice of the applicant's choice of alternative(s), the Area Director shall determine whether the alternative(s) chosen will solve the funding problem. If the applicant's choice of alternative(s) is sufficient to solve the funding problem, or if the solution involves reprogramming which requires congressional action, the Area Director shall take the action as appropriate. If the applicant's choice of alternative(s) will not solve the funding problem, the applicant shall be notified in writing and will be asked to reconsider the matter and make a second choice. After the applicant has reconsidered and notified the Area Director in writing of its second choice of alternative(s), the Area Director shall decide whether that choice is sufficient to solve the funding problem. If the Area Director determines that the applicant's second choice of alternative(s) will not solve the funding problem, or if the applicant refuses to make a selection, the proposed contract cannot be entered into due to the limitation that moneys obligated on contracts cannot exceed available appropriations.
 - The tribal organization and the tribal governing body(s) will be notified in writing if the Area Director decides that the proposed contract cannot be entered into because of unresolved funding problems. The Area Director's decision may be appealed to the Commissioner, and the notice shall include a statement to that effect. The applicant shall have 30 days from receipt of notice to exercise its appeal rights by providing the Area Director with a notice in writing to that effect.
- Upon receipt of notice of appeal, an informal conference shall be conducted by the Commissioner or by an official designated by him. The purpose of the informal conference will be to attempt to resolve issues without going through the formal hearing procedure. Interested parties entitled to present their positions, may attend

the informal conference and present their position. If the applicant is not satisfied with the informal conference the applicant is entitled to a formal hearing.

- If the tribal organization and tribal governing body(s) choice of alternatives includes the reprogramming of funds, the Area Director shall forward the reprogramming results, the reasons for the request, and his recommendations to the commissioner for further action as given in §271.25. The Commissioner or an official designated by him may hold an informal conference with the applicant prior to making a final decision on a reprogramming request if the conference is requested by the applicant. If the appropriate congressional committees grant the reprogramming request, the Area Director shall take the actions. If Congress does not grant the reprogramming request, the contract cannot be made and the Area Director shall so notify the applicant in writing.
- If funds are available to adequately finance the proposed contract without significantly reducing services under the noncontracted programs or parts of programs and there are no declination issues, the Area Director will notify the contract applicant in writing of this fact. Before the negotiations take place, the Area Director shall give the applicant a copy of any documents to be used by the BIA during negotiations. The Area Director shall negotiate and award the contract within 30 days of notifying the applicant unless a later date is requested by the applicant.
- If funds are available to adequately finance the proposed contract without significantly reducing services under the noncontracted programs or parts of programs, but it is felt that there are declination issues which must be resolved, the Area Director will notify the tribal organization and tribal governing body(s) of the fact in writing. The notice shall include a list of the declination issues identified by the Area Director, the reason(s) for such determination, a copy of any documents used in arriving at the issues, recommendations for resolving the issues, and the technical assistance available for this purpose.
- If the applicant accepts the Area Director's offer of technical assistance, it shall be provided in accordance with the applicant's request. At such time as the issues are thus resolved, the Area Director will so advise the applicant and offer to enter into negotiations within 30 days of resolution or unless the applicant requests additional time.
- If the applicant declines the Area Director's offer of the technical assistance and the matter is not otherwise resolved, the Area Director shall proceed in accordance with §271.24 (Area Director's Recommendation to Decline).
- If the applicant does not agree with the Area Director's recommendations and the matter is not resolved within 30 days of the Area Director's recommendations, the Area Director shall proceed in accordance with §271.24 (Area Director's Recommendation to Decline).

Section §271.25 contains the review and action by the Commissioner:

- Within five days after receiving a contract application submitted directly under §271.21, or after receiving a contract application with either the Area Director's recommendation to decline or the Area Director's decision that the contract cannot be entered into because of unresolved funding problems, the Commissioner shall notify the tribal organization (unless restricted by the tribal resolution §271.18 or subsequent resolutions and tribal governing body(s) in writing of the receipt of the application.
- An application submitted directly to the Commissioner will be handled by the Director within the BIA in whose substantive jurisdiction the subject matter of the proposed contract falls. That Director will perform all of the actions of the Area Director specified in §271.23.

For an application referred by an Area Director, the Commissioner will perform one of the following as required by §271.23:

- In case of insufficient funds, the Commissioner shall within 30 days review the factual record developed in the formal hearing. The Commissioner shall consider whether funds are available to finance the proposed contract. If the solution to the funding problem chosen by the applicant involves reprogramming, the Commissioner, if he concurs, will forward the reprogramming request with the reasons for the request through the Department to the Office of Management and Budget for referral to the appropriate congressional committees for approval. The applicant shall be notified in writing if the Commissioner decides that the proposed contract cannot be made because of unresolved funding problems.
- When the Commissioner does not accept the Area Director's advice of insufficient funding, following the review of the factual record developed under §271.81, notice shall be given that the recommendations are not accepted and that the BIA shall negotiate and award the contract within 45 days, unless the applicant requests additional time.
- If the Commissioner determines that the applicant cannot be accepted, the insufficient funding notice shall be issued within 30 working days, as provided under §271.81(d). The advice of insufficient funding notice shall be in writing and shall contain:
 - Identification of the specific objections that the contract cannot be entered into due to the limitation that moneys obligated cannot exceed appropriations under 31 U.S.C. 665 (a).
 - Specific recommendations on actions required by the applicant to overcome objections and a description of the nature, scope, and source of the technical assistance which will be available to overcome objections.
 - Copies of the transcript of the formal hearing and all documentary evidence introduced and provided under §271.81(c)(vi).

When declination issues are involved, within 15 days after receiving the formal hearing record, the BIA shall notify the tribal organization (unless restricted by the tribal

resolution under §271.18 or subsequent resolutions or tribal governing body(s) and the Area Director(s) or the Commissioner's decision.

When the Commissioner does not accept the Area Director(s) recommendation to decline, following the review of the factual record developed under §271.81, notice shall be given that the recommendations are not accepted and that the BIA shall negotiate and award the contract within 45 days unless the applicant requests additional time.

If the Commissioner determines under §271.81 that the application should be declined, the declination notice shall be issued within 30 working days as provided under §271.81(d) and within 30 days after notifying the applicant. The declination notice shall be in writing and shall contain:

- Identification of specific objections, categorized under one or more of the declination criteria set forth in §271.15.
- Specific recommendations on actions required by the applicant to overcome objections and a description of the nature, scope, and source of the technical assistance which will be available to overcome declination objections.
- Copies of the transcript of the formal hearing and all documentary evidence introduced as provided under §271.81(c)(vii).

Section §271.34 contains criteria for declining the contract. If a contract application includes a project or function which is related to the BIA's performance of a trust responsibility in the area of natural resources, the Commissioner shall decline to contract if he finds that:

- The contract application provides for or would necessarily require the delegation to the tribal organization of a trust responsibility vested by law in the Secretary or the Commissioner.
- The contract application provides for the termination of a trust responsibility.
- The contract application provides for completion or maintenance of the project or function to a lesser standard than under BIA administration. However, a tribal proposal to raise performance standards shall not be used as a reason for declination.
- The proposed activity requires special skills for its performance and the proposed key staff does not meet Civil Service Commission or excepted professional standards appropriate to the discipline involved, or are not otherwise recognized as technically qualified.

Section §271.42 contains provisions for use of government property:

- In carrying out a contract made under this part, the Superintendent, Area Director or Commissioner shall, wherever possible, permit a tribal contractor to use existing buildings, facilities, and related equipment and other personal property owned by the BIA within his jurisdiction. To the extent possible, arrangements on the use of BIA

property shall be provided for in the contract agreement. In determining whether real or personal property can be provided, the BIA shall determine whether it can provide comparable services for any of the uncontracted part(s) or the program.

- Requests for the use of BIA property which arise after signing of the contract shall be submitted to the relevant BIA official by the tribal organization. Such requests should be granted and the contract appropriately amended unless such use will seriously interfere with the administration of existing BIA programs. The property at the time of transfer must conform to the minimum standards established by the Occupational Safety and Health Act of 1970 (84 Stat. 1590), as amended (29 U.S.C. 651).

Indian preference provisions for employment are contained in §271.44:

- Any contract made by the BIA with a tribal organization shall provide that the tribal contractor shall, to the greatest extent feasible, give preference in and opportunities for employment and training to Indians.
- Any contract made by the BIA with a tribal organization shall provide that the tribal contractor shall, to the greatest extent feasible, give preference in the award of subcontracts to Indian organizations and to Indian-owned economic enterprises.

Requirements for liability and motor vehicle insurance are contained in §271.45:

- Tribal organizations shall obtain public liability insurance under contracts entered with the BIA under this part. However, where the contracting officer determines that the risk of death, personal injury, or property damage under the contract is small and that the time and cost of procuring the insurance is great in relation to the risk, the contract may be exempted from this requirement.
- Any contract which requires or authorizes, either expressly or by implication, the use of motor vehicles must contain a provision requiring the tribal organization to provide liability insurance, regardless of how small the risk.

Requirements for record keeping are contained in §271.46. A tribal contractor will be required to maintain a record keeping system which will allow the BIA to meet its legal records program requirements under the Federal Records Act (44 U.S.C. 3101 et seq.) and to facilitate contract retrocession or reassumption under Subpart F of this part. Such a record system shall:

- Fully reflect all financial transactions involving the receipt and expenditure of funds provided under the contract in a manner which will provide accurate, current and complete disclosure of financial status; correlation with budget or allowable cost schedules; and clear audit facilitating data.
- Reflect the amounts and sources of funds other than contract funds which may be included in the operation of a program.

- Provide for the creation, maintenance, and safeguarding of records of lasting value, including those involving individual rights, such as permanent student records and transcripts.
- Provide for orderly retirement of records used or created under the contract. Such records shall be returned to the BIA for disposition according to the General Records Schedules and the Bureau Records Control Schedules.
- Provide record keeping adequate to verify the fairness and uniformity of services provided to the Indians affected by the contract in case of formal complaints.

Annual reporting requirements for contracts is contained in §271.49:

- For each fiscal year during which a tribal organization receives or expends funds pursuant to a contract under this part, the tribe which requested the contract must submit a report to the Commissioner. The report shall include, but not be limited to an accounting of the amounts and purposes for which the contract funds were expended, the tribe's evaluation of the contract performance using the criteria submitted in the contract application, and information on the contract of the program or services involved. The report shall include any other contract-related information requested by the Commissioner and may be submitted as follows:
- When the contract is with the governing body of an Indian tribe, the tribe shall submit the report to the Area Director.
- The annual report shall be submitted to the Area Director or Commissioner as appropriate within 90 days after the end of the fiscal year in which the contract was performed. However, upon receipt of a written request, the period for submitting the report may be extended by the Area Director or the Commissioner if there is just cause for such extension.
- In addition to the yearly reporting requirement, the contract shall provide that the tribal contractor will make available monthly, to members of the tribe(s) affected, an accounting of the amounts and the purposes for which the contract funds were expended during the previous monthly period.

Provisions for contract funds are contained in §271.54. The tribal organization shall be entitled to be funded for direct and indirect costs under the contract as follows:

- Direct costs under contracts for operations of programs or parts shall not be less than the BIA would have provided if the BIA operated the program or part during the contract. Direct costs shall include the BIA's direct costs for planning, administering, and evaluating the program or part and shall not be used to reduce indirect costs otherwise allowable to the tribal organization.
- Direct costs under contracts for operation of programs or parts operated by the BIA before contract operations shall be not less than the funds that are programmed and available for the program or part at the time of the contract application, except as limited below.

- Direct costs under contracts for operations of programs or parts authorized to be operated by the BIA but not operated by the BIA, for the benefit of the Indians to be served under the contract shall be determined by mutual agreement based on a comparison of similar programs by the applicant, the requesting tribe, other tribes, the BIA, and other governmental, public or private organizations.
- Direct costs for programs or parts to be contracted at the Area Office level shall be based on the funds available at that level.
- Funds provided under contract for direct or indirect costs shall not cause reduction in funds provided for other programs or parts not under contract, except as agreed to by the affected tribe(s) and within the existing authorities of the BIA.

APPENDIX B CURRENT ORGANIZATION AND FUNCTIONS OF THE OSAGE AGENCY, BRANCH OF MINERALS ADMINISTERED BY THE BUREAU OF INDIAN AFFAIRS

B1.0 INTRODUCTION

The Osage Agency, Branch of Minerals, is administered by the Bureau of Indian Affairs for management, development, and production of oil, gas, and other minerals owned by the Osage Mineral Reservation Estate in the most prudent and efficient manner possible for the Osage Tribe and its members as shareholders in the Estate. It provides technical and managerial expertise at the local level in trust management and responsibility of the same for the United States Government in its commitment to the Osage Tribe for all minerals located within the boundaries of Osage County, Oklahoma. The Agency currently performs these duties with approximately 35 employees in 4 sections of the Branch of Minerals: Engineering, Field, Lease Compliance, and Accounting. There are approximately 17,500 operating wells producing 14,000 barrels of oil per day and 10 million cubic feet of gas per day from approximately 2,700 active leases on the 1,470,000-acre Osage Mineral Reservation Estate. Oil and gas production and drilling activity have decreased and well abandonment has increased since 1985. The Branch of Minerals is managed by a Supervisory Petroleum Engineer, who reports to the Superintendent of the Osage Agency. The section managers report to the Supervisory Petroleum Engineer.

B2.0 ENGINEERING SECTION

The Engineering Section is managed by a supervising petroleum engineer. This section has two petroleum engineers, a petroleum engineering technician, and a cartographic technician reporting to the supervising petroleum engineer. This section provides recommendations for approval of drilling, workover, and plugging permit applications; technical assistance to management; information management; mapping projects; and special projects.

B2.1 Approval of Application for Drilling, Workover, and Plugging Permits

In the Engineering Section, two employees are certified archeological technicians who perform archeological surveys on well locations as drilling applications are submitted and before drilling

permits are issued. Archeological sites are plotted on the plat maps and reported to the Wichita Tribe and Osage Tribe. Lease plat maps are checked for lease ownership, surface ownership, proper well number, and acceptable well location. Surface ownership is checked to insure correct payment of damages for commencement of drilling operations. The operator's proposed drilling program and plan is checked for groundwater protection, acceptable casing program, and logging program for adequate evaluation of potential producing formations.

Operators must apply for a permit prior to beginning workover operations. The Engineering Section check the records, plats, and permit to verify the well number and location of the well for workover. They verify the feasibility of the workover procedure and program for meeting the objectives of the workover. If a new technique is used and is successful, the Engineering Section will recommend the procedure to other operators in the county. They verify that the workover will not create problems or interrupt the accounting procedure.

Before a plugging permit is issued, the Engineering Section checks with the Lease Compliance Section to verify that the plugging fee has been paid. They check the engineering design of the plugging procedure to insure that the plugs will meet all requirements of the Osage Agency and the EPA for protection of underground sources of drinking water. Any producing zones must be protected by cement plugs.

B2.2 Technical Assistance to Management

The Engineering Section provides technical assistance to management of the Branch of Minerals. Management consists of the Superintendent, the Branch Chief (Supervisory Petroleum Engineer), and the Osage Tribal Council. The section prepares draft proposals and agreements for minerals assessment, designs and helps conduct special lease sales, provides ideas to improve regular lease sales, drafts changes to regulations, reviews unusual mineral agreements, reviews gas purchase contracts to insure fair treatment for the lessor, suggests policy changes, recommends/justifies/monitors new technology projects, and provides answers to questions from the Osage Tribal Council.

B2.3 Information Management

The Engineering Section checks and verifies all data on completion reports, weekly operations reports, and enforcement submission requirements. They provide a review of lease status submitted annually for every active lease, report statistical feature on leases (i.e.. type and number of wells, disposition of production, etc.), and audit gas charts of operators and purchasers of natural gas.

B2.4 Mapping Projects

The Engineering Section maintains and updates plats, creates special purpose maps, maintains structure map inventory, sells maps, maintains production graphs, creates special purpose graphs, and makes signs for the Osage Agency.

B2.5 Special Projects

The special project that is of primary concern to the Engineering Section is cultural resource protection. There are two certified archaeological technicians who survey all oil field construction sites and/or surface disturbances requiring construction for evidence of Native American artifacts. Once a construction site has been surveyed and approved, no further work will ever be necessary on that site. Native American artifact sites are reported to the Osage Tribe and Wichita Tribe, the BIA, the State Archeological Survey (OAS), and the State Historic Preservation Office (SHPO). It takes one archeological technician one day to perform a survey on a specific site. During the 14 months that the special projects program has been in existence, 150 locations have been approved. The section estimates that it takes four archeological technicians four days to perform a survey of one lease (160 acres). This type of survey is not conducted at this time because of the limited staff.

B3.0 FIELD SECTION

The Field Section is managed by a supervising petroleum engineering technician. This section has six engineering technicians, two petroleum engineering technicians, four engineering technicians/gaugers, and two clerk typists, all reporting to the supervising petroleum engineering technician. This section monitors or inspects all oil and gas leases in the assigned area and checks surface ownership, production, control cards for sales, and plat books for ownership, well locations, and well numbers. If drilling locations are on restricted or privately owned lands, it checks for awareness of damages. It also checks all leases for pollution, and check leases in primary term for production and/or annual lease rentals, as well as for delinquent rentals (leases and saltwater disposal wells) and permits for plugging and plugging instructions to operators. It monitors LACT and gas meters, and tank strapping, and it suggests policy changes.

B4.0 LEASE COMPLIANCE SECTION

The Lease Compliance Section is managed by a supervisory realty specialist who reports to the Branch Chief (Supervisory Petroleum Engineer). The section includes an additional realty specialist, six clerk typists, one clerk steno, and two office auto clerks. They review, analyze, process, and monitor oil and gas leases and related documents, including assignments and division orders; receive, review, and process nominations for lease sales; prepare all bulletin

and other documentation for sales; collect initial deposits and the balance of bonus monies for each leased tract; process all mineral permits, agreements, gas contracts, and saltwater disposal easements; collect annual rentals for permits, easements, and nonproducing leases; provide assistance in resolving technical problems pertaining to leasing and other mineral operations; maintain statistical data as to the numbers of wells, leases, and acreage leased in Osage County; maintain all lease, permit, easement, legal, and electrical log and driller's log files for the Branch of Minerals; collect and disburse damages and commencement fees for restricted land owners; collect, review, and process monthly lessee reports for the oil control cards; provide clients with pertinent information concerning oil and gas leases and other mineral functions; and prepare all change order documents which are used to update all sources of information (maps, leases, control cards, etc.) in the Branch of Minerals.

B5.0 ACCOUNTING SECTION

The Accounting Section is managed by a production analyst, with four accounting technicians performing the functions of the section and reporting to the manager. The section collects and accounts for all mineral royalties, plus various other mineral-related income. Emphasis is on insuring that all money owed to the Osage Tribe is received and properly accounted for.

B5.1 Oil Accounting

Oil income represents about 91% of all mineral income. About 1,300 reports are processed each month. The section reconciles the lessee's oil sales volume with the purchaser's volume on a monthly basis. Sales witnessed by the BIA are also checked against the purchaser's volume. The section confirms that royalty amounts shown by the purchaser are reconciled with their royalty check. All amounts deposited to the royalty account are verified by accounting. All work of this section is performed manually.

B5.2 Gas Accounting

Gas royalty represents about 6% of all mineral income. Approximately 900 reports are processed on a monthly basis. The section reconciles the purchaser's sales volumes and royalty payments with the lessee's reports of sales volumes. Royalty amounts deposited are verified and credited to the royalty account. This system is partially automated.

B5.3 Additional Royalty

Additional royalty is royalty due when oil is sold for less than the highest posted price in Osage County. The difference between the two prices is collected by the Accounting Section. During

1988–1992, collections were reconciled because of the Okie Crude v. Area Director BIA decision. About 3,000 sales each month are processed through the additional royalty system. Royalty due is calculated and reconciled with additional royalty paid. Recently, the BIA has completed a major upgrade to the processing system by automating all of the calculations for each monthly sale.

B5.4 Minimum Royalty

Minimum royalty is the royalty due if a lease does not generate as much royalty income per year as the rental amount (\$320 per year for an oil and gas lease). The selection process is automated; however, calculation of royalties and billing are done manually. The Accounting Section is several months behind in assessing these royalties because the section has been concentrating on completing work on additional royalties.

B5.5 Gross Production Taxes and Miscellaneous

The Accounting Section summarizes income by quarter and pays the 5% gross production tax. Highest posted prices are calculated each month. Income on other minerals such as rock, sandstone, and sandy soil are collected, and the accounting performed. Rental from saltwater disposal easements, commercial saltwater disposals, oil and gas leases, and gas storage are collected, and the accounting performed. On any of the royalties, late fees are calculated and assessed when payment is late.

APPENDIX C

REFERENCES TO IMPORTANT ENVIRONMENTAL REGULATIONS IN THE CODE OF FEDERAL REGULATIONS, VOLUME 40

C1.0 WATER QUALITY

40 CFR PART 131—WATER QUALITY STANDARDS

- Subpart A—General Provisions
 - §131.8 Requirements for Indian Tribes to be treated as States for purposes of water quality standards.

40 CFR PART 142—NATIONAL PRIMARY DRINKING WATER REGULATIONS IMPLEMENTATION

- Subpart H—Treatment of Indian Tribes as States
 - §142.72 Requirements for treatment as a State.
 - §142.76 Request by an Indian Tribe for a determination of treatment as a State.
 - §142.78 Procedure for processing an Indian Tribe's application for treatment as a State.

C2.0 INJECTION WELLS

40 CFR PART 144—UNDERGROUND INJECTION CONTROL PROGRAM

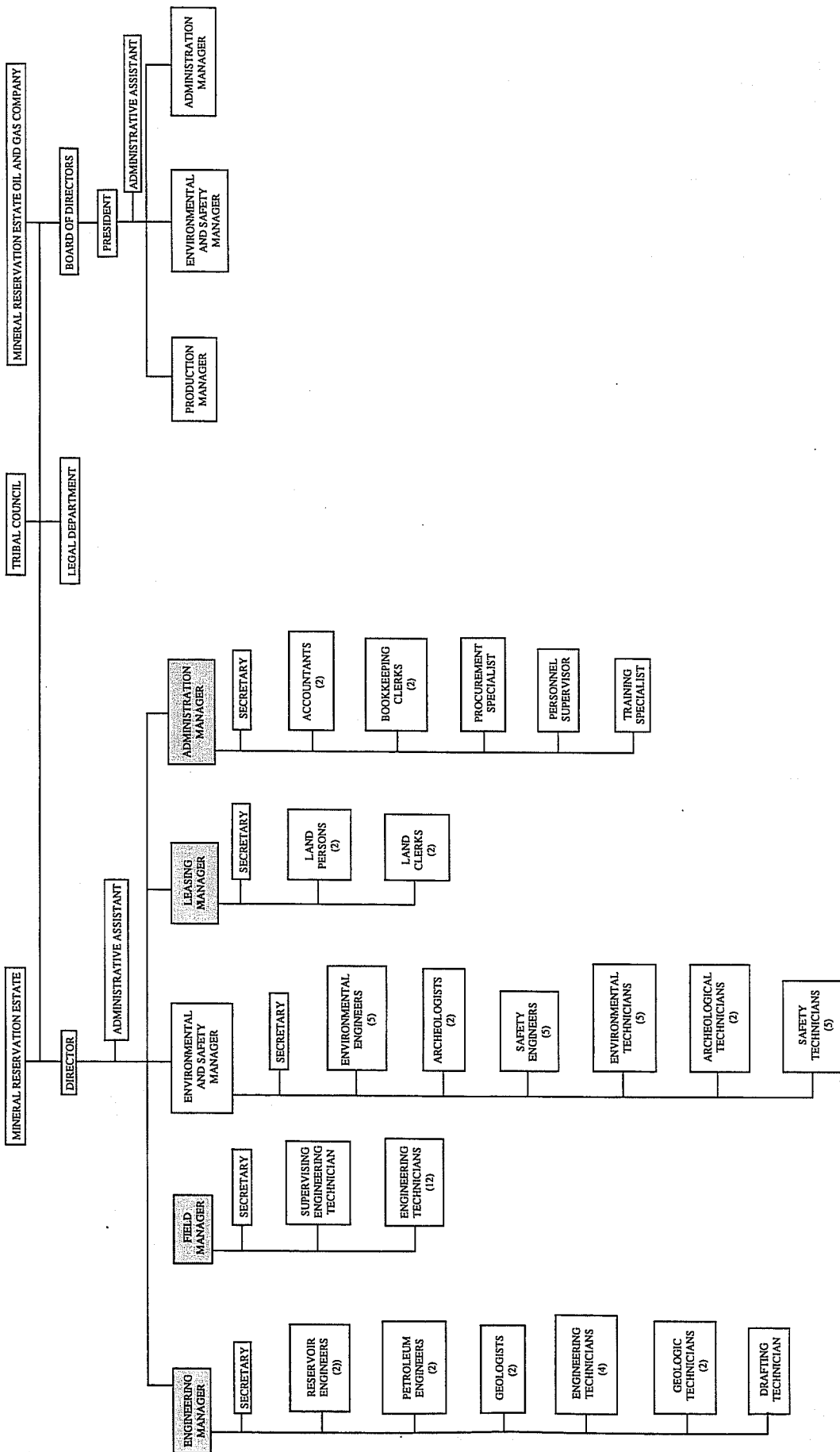
- Subpart A—General Provisions
 - §144.2 Promulgation of Class II programs for Indian lands.

40 CFR PART 145—STATE UIC PROGRAM REQUIREMENTS

- Subpart E—Treatment of Indian Tribes as States
 - §145.52 Requirements for treatment as a State.
 - §145.56 Request by an Indian tribe for a determination of treatment as a State
 - §145.58 Procedure for processing an Indian Tribe's application for treatment as a State.

40 CFR PART 147—STATE UNDERGROUND INJECTION CONTROL PROGRAMS

- Subpart LL—Oklahoma
 - §147.1852 EPA-administered program—Indian lands.
- Subpart GG—Osage Mineral Reserve—Class II Wells
 - §147.2901 through §147.2929 (Regulations for Class II injection wells in Osage County)



SHADING INDICATES
EXISTING DEPARTMENTS

Figure 1 Phase 1 Organization Chart for the Mineral Reservation Estate and the Mineral Reservation Estate Oil and Gas Company

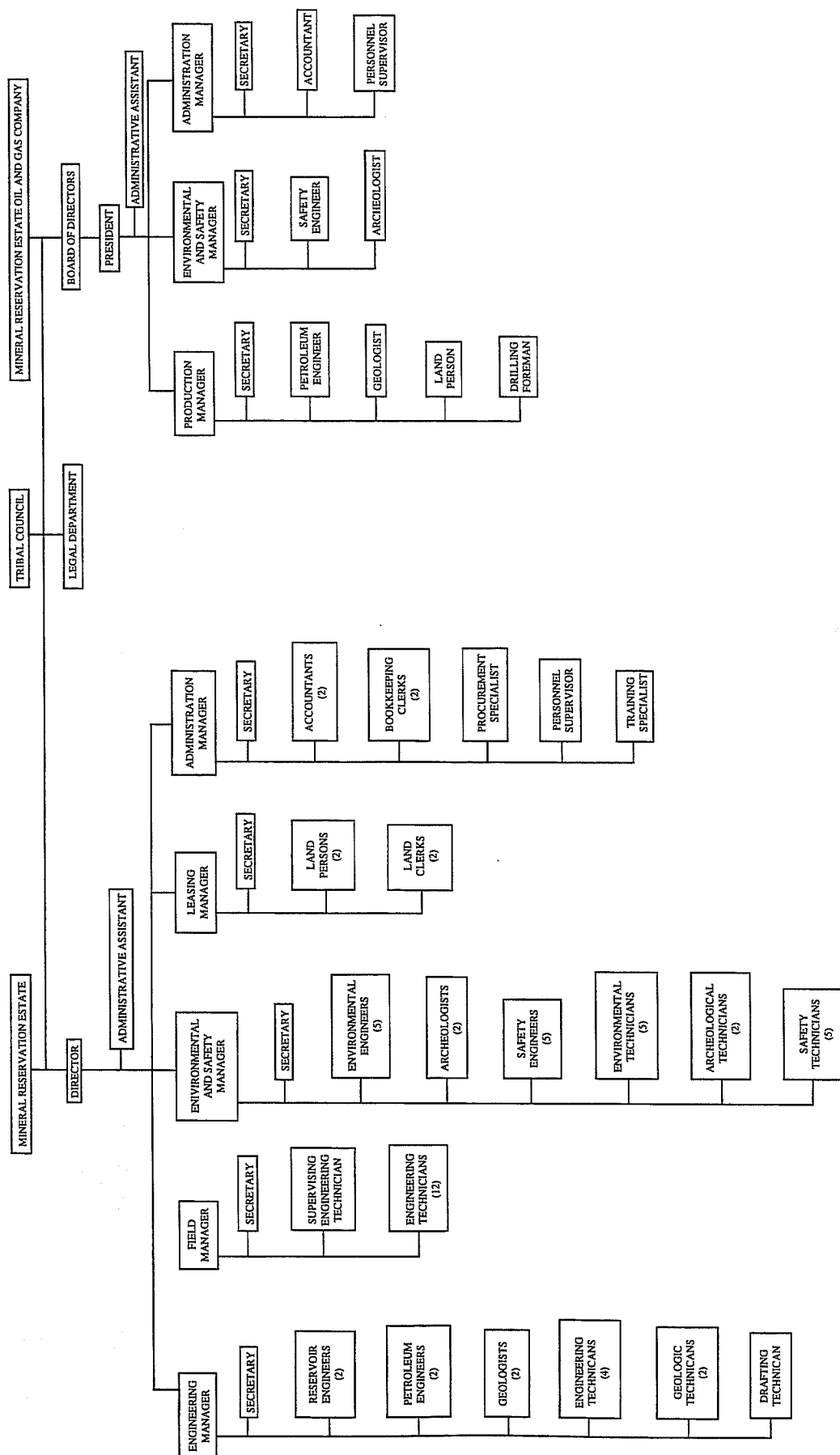


Figure 2 Phase 2 Organization Chart for the Mineral Reservation Estate and the Mineral Reservation Estate Oil and Gas Company

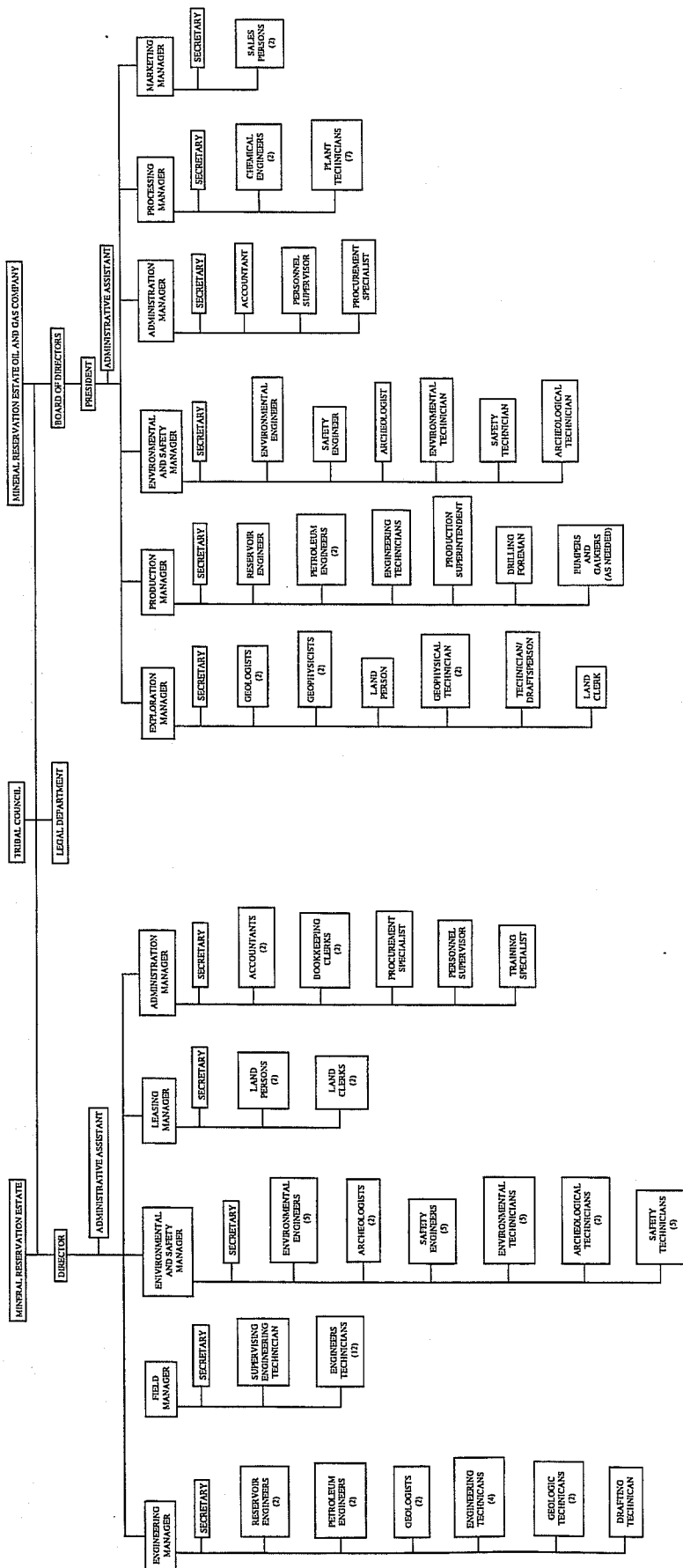


Figure 3 Phase 3 Organization Chart for the Mineral Reservation Estate and the Mineral Reservation Estate Oil and Gas Company

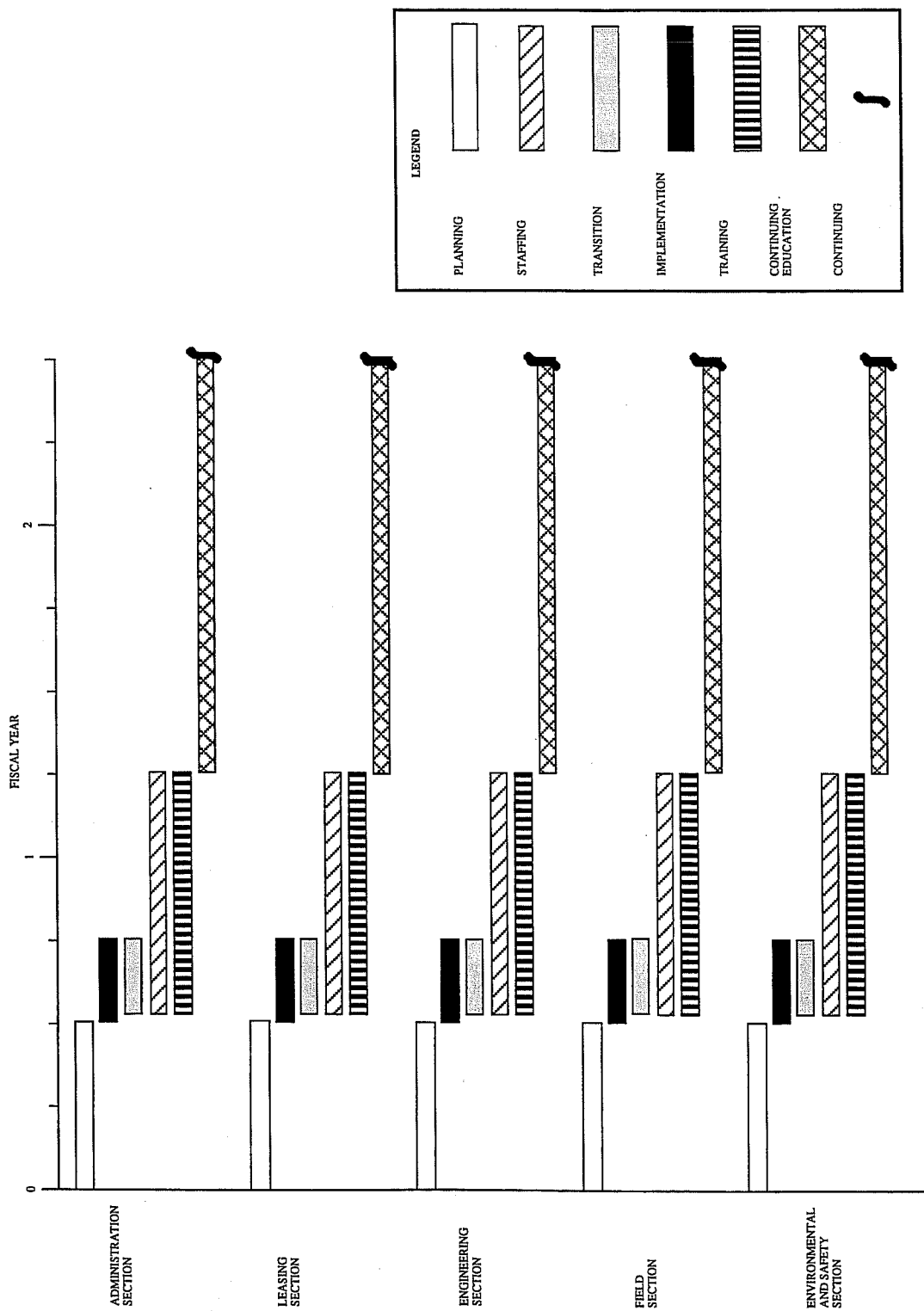


Figure 4 Timeline for Organization and Start-Up of the Management of Mineral Assets of the Mineral Reservation Estate

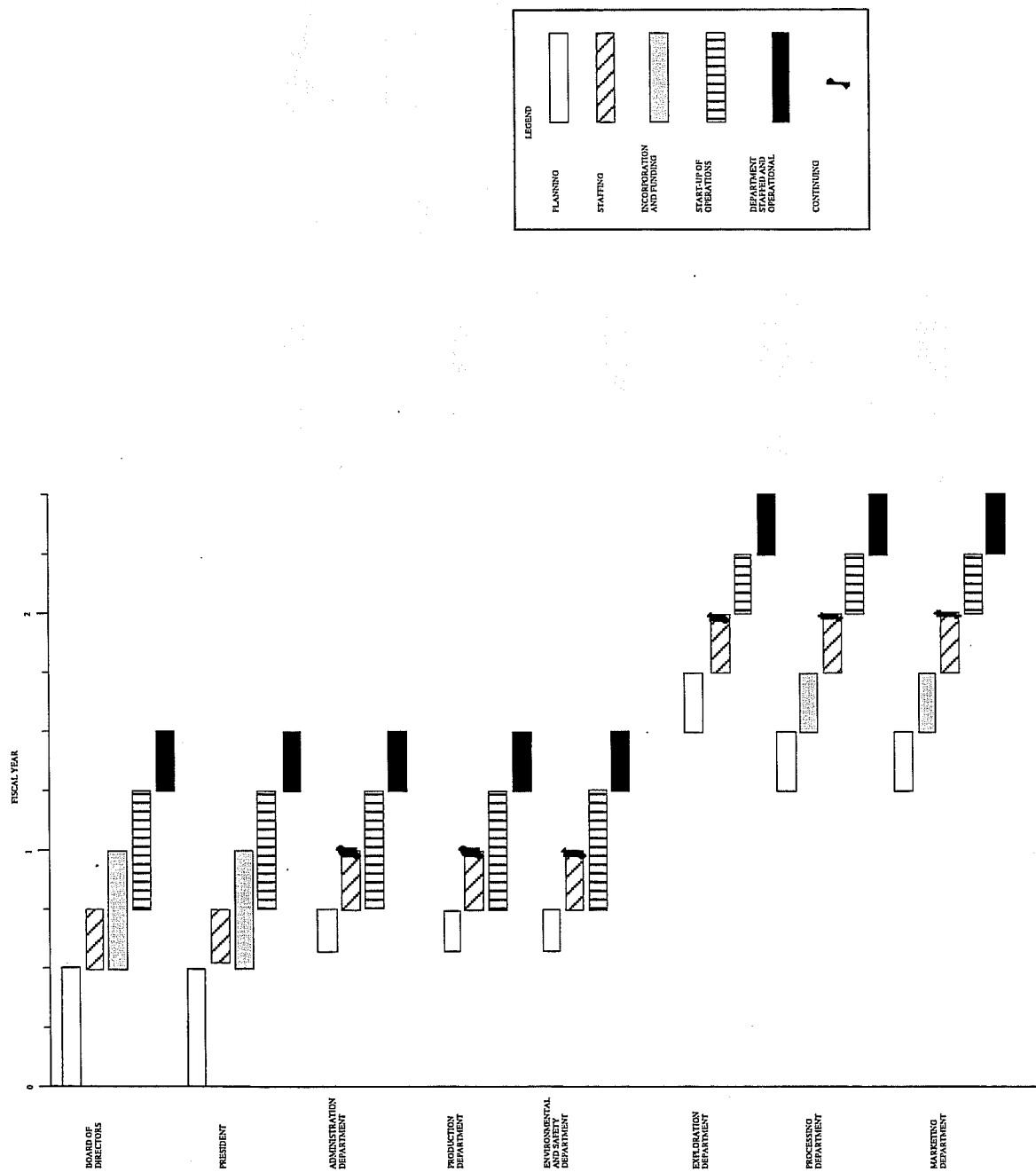


Figure 5 Timeline for Organization and Start-Up of the Mineral Reservation Estate Oil and Gas Company

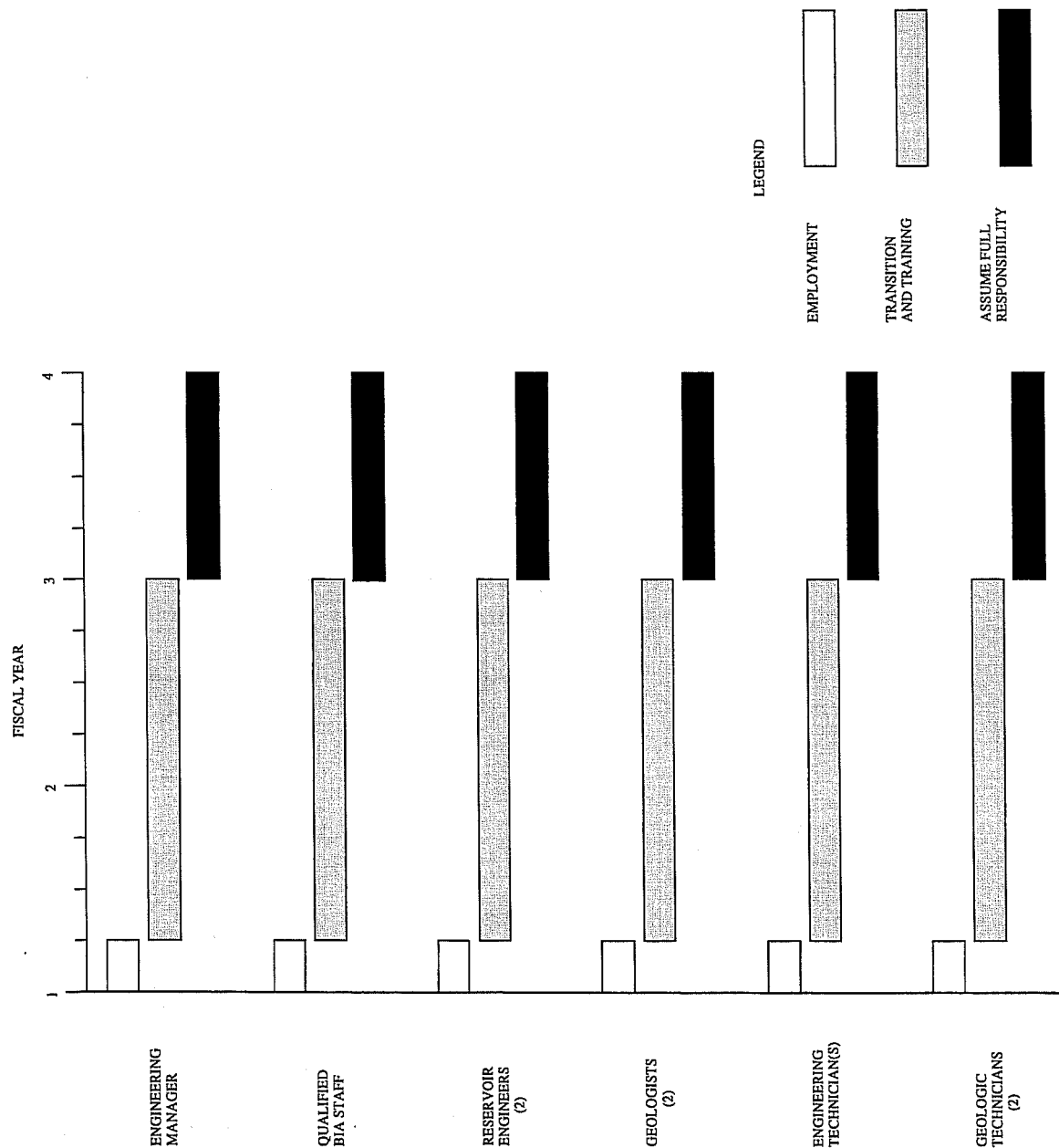


Figure 6 Timeline for Organization and Start-Up of the Engineering Section of the Mineral Reservation Estate

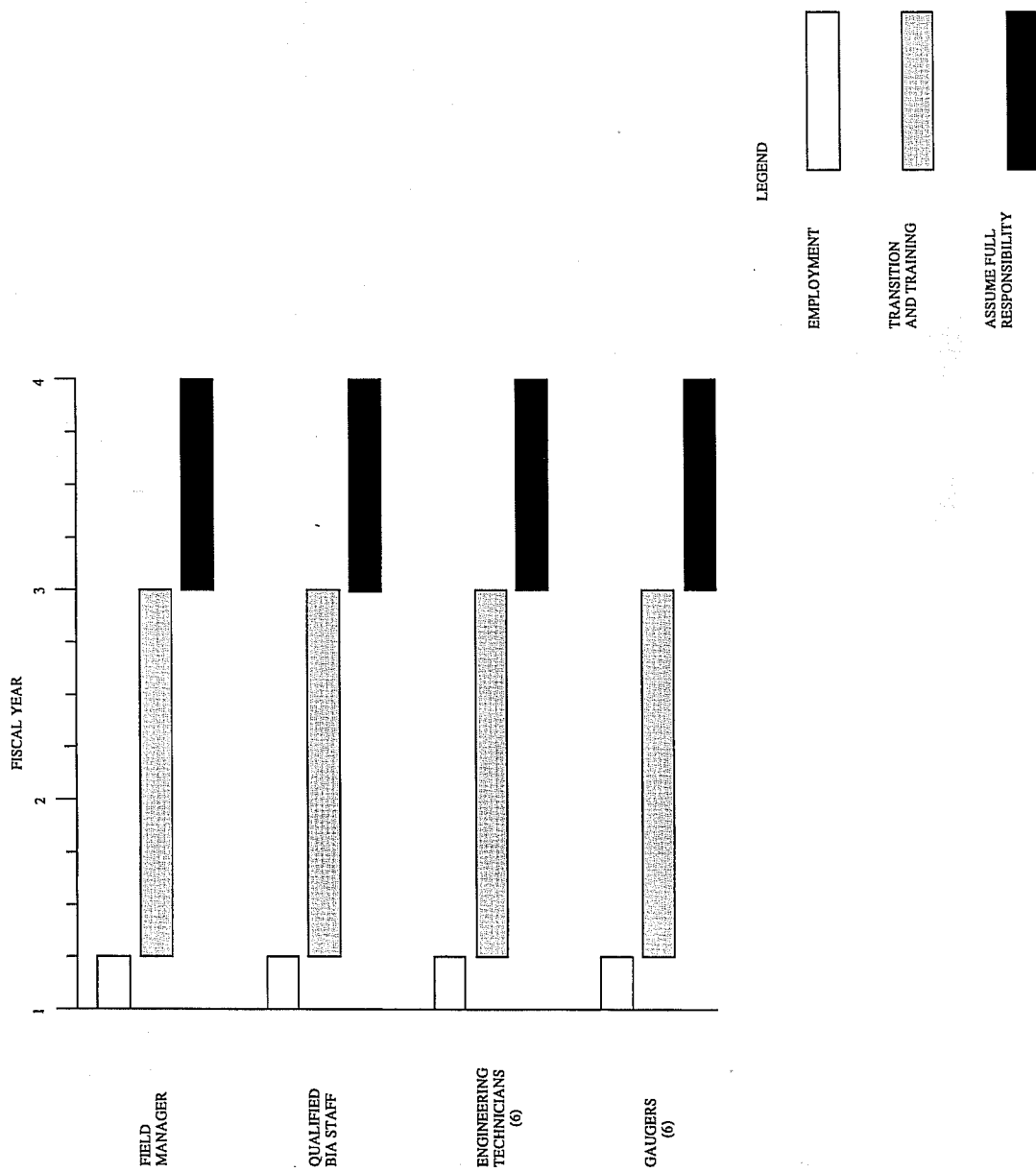


Figure 7 Timeline for Organization and Start-Up of the Field Section of the Mineral Reservation Estate

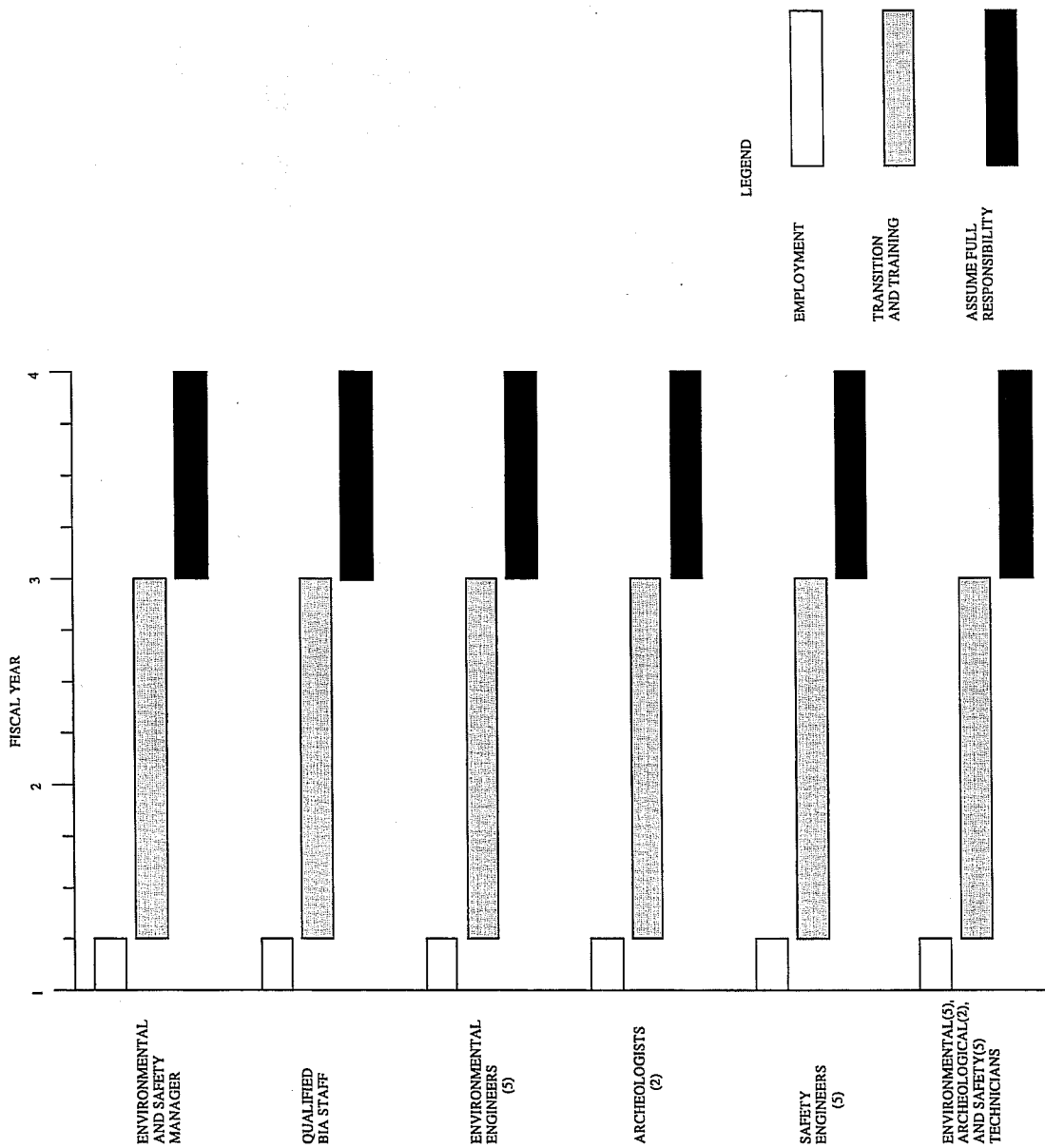


Figure 8 Timeline for Organization and Start-Up of the Environmental and Safety Section of the Mineral Reservation Estate

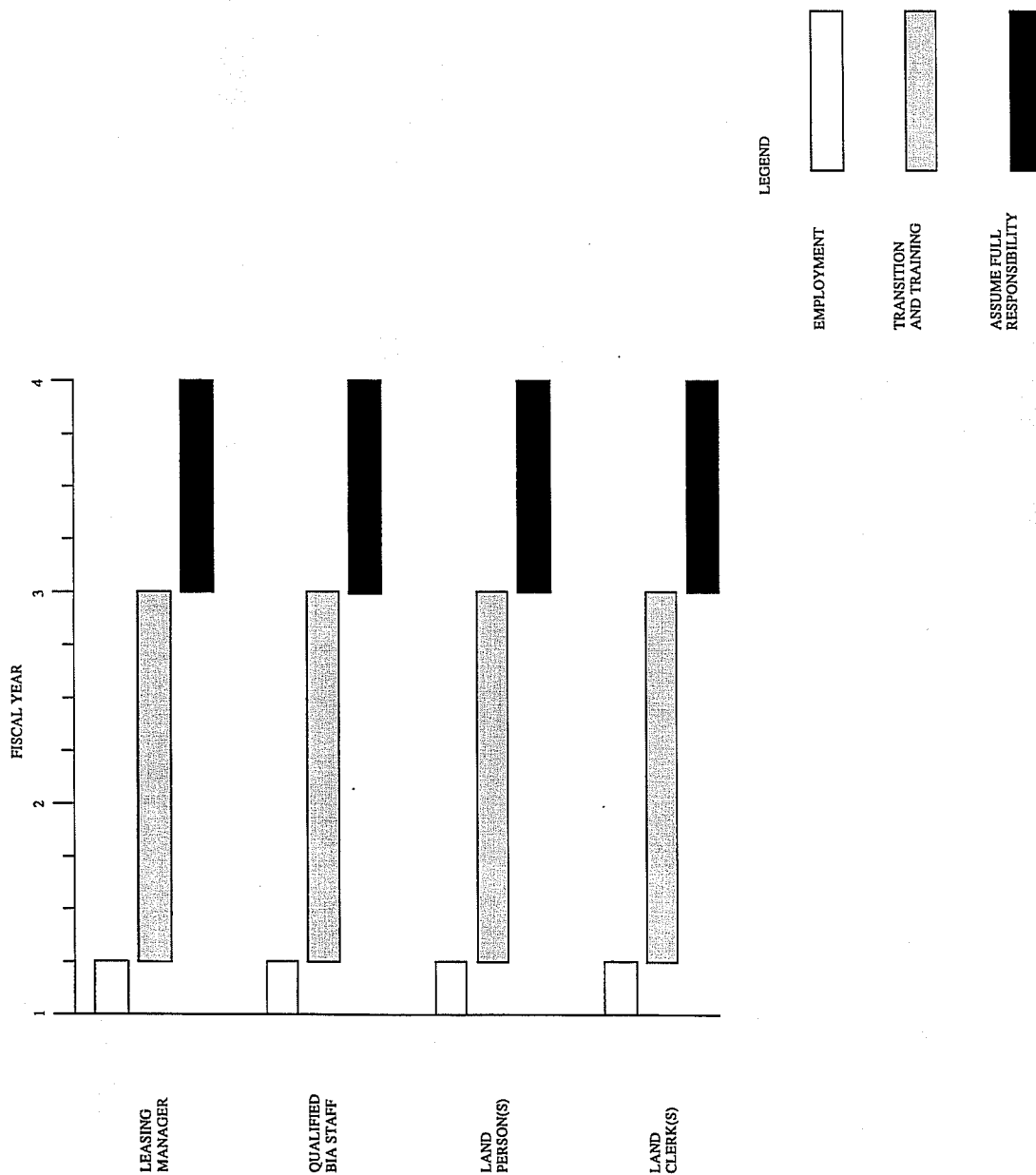


Figure 9 Timeline for Organization and Start-Up of the Leasing Section of the Mineral Reservation Estate

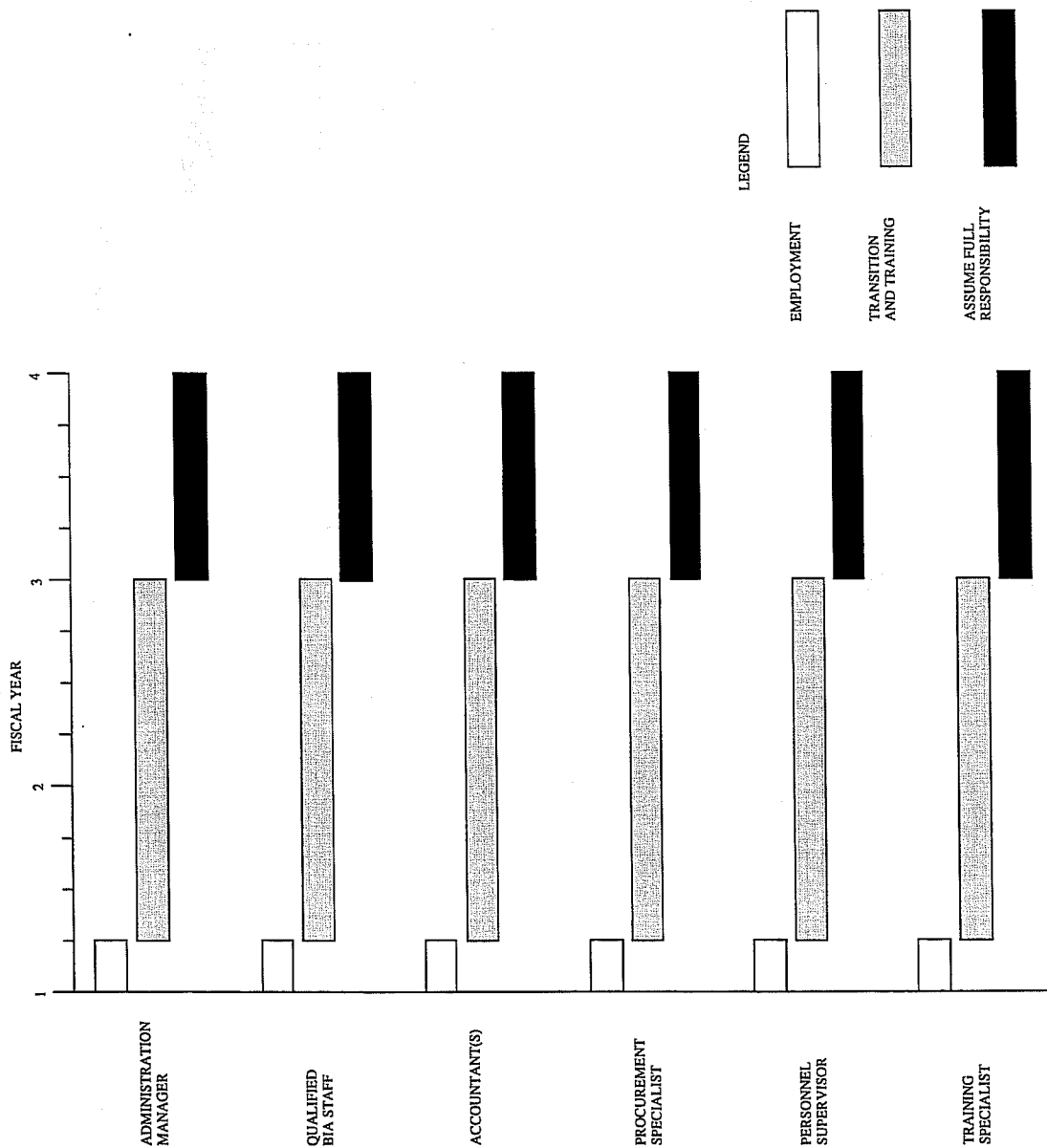


Figure 10 Timeline for Organization and Start-Up of the Administrative Section of the Mineral Reservation Estate

FYXX	Labor Category	October		November		December		January		February		March		April		May		June		July		August		September		Total		
		Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$	
	Director	173.3	7,998	173.3	7,998	173.3	7,998	173.3	7,998	173.3	7,998	173.3	7,998	173.3	7,998	173.3	7,998	173.3	7,998	173.3	7,998	173.3	7,998	173.3	7,998	1,089	56,000	
	Manager	866.7	36,001	866.7	36,001	866.7	36,001	866.7	36,001	866.7	36,001	866.7	36,001	866.7	36,001	866.7	36,001	866.7	36,001	866.7	36,001	866.7	36,001	866.7	36,001	10,400	360,000	
	Act. Eng/Const.	1048	24,000	1048	24,000	1048	24,000	1048	24,000	1048	24,000	1048	24,000	1048	24,000	1048	24,000	1048	24,000	1048	24,000	1048	24,000	1048	24,000	12,480	258,000	
	Architect/Envir/Lands.	2080	24,000	2080	24,000	2080	24,000	2080	24,000	2080	24,000	2080	24,000	2080	24,000	2080	24,000	2080	24,000	2080	24,000	2080	24,000	2080	24,000	24,960	432,012	
	Accountant	520	9,000	520	9,000	520	9,000	520	9,000	520	9,000	520	9,000	520	9,000	520	9,000	520	9,000	520	9,000	520	9,000	520	9,000	6,240	108,000	
	Surveying	1733.3	24,999	1733.3	24,999	1733.3	24,999	1733.3	24,999	1733.3	24,999	1733.3	24,999	1733.3	24,999	1733.3	24,999	1733.3	24,999	1733.3	24,999	1733.3	24,999	1733.3	24,999	29,988	299,988	
	Superior Eng. Tech.	173.3	2,500	173.3	2,500	173.3	2,500	173.3	2,500	173.3	2,500	173.3	2,500	173.3	2,500	173.3	2,500	173.3	2,500	173.3	2,500	173.3	2,500	173.3	2,500	2,080	30,000	
	Admin. Asst.	4506.6	39,000	4506.6	39,000	4506.6	39,000	4506.6	39,000	4506.6	39,000	4506.6	39,000	4506.6	39,000	4506.6	39,000	4506.6	39,000	4506.6	39,000	4506.6	39,000	4506.6	39,000	54,079	468,000	
	Technician	2773.3	24,000	2773.3	24,000	2773.3	24,000	2773.3	24,000	2773.3	24,000	2773.3	24,000	2773.3	24,000	2773.3	24,000	2773.3	24,000	2773.3	24,000	2773.3	24,000	2773.3	24,000	33,280	288,000	
	Secretal/Clerical																											
	Salaries & Wages	14,640	199,499	14,640	199,499	14,640	199,499	14,640	199,499	14,640	199,499	14,640	199,499	14,640	199,499	14,640	199,499	14,640	199,499	14,640	199,499	14,640	199,499	14,640	199,499	168,478	2,394,000	
	Employee Benefits		74,812		74,812		74,812		74,812		74,812		74,812		74,812		74,812		74,812		74,812		74,812		74,812	897,750	6,917,500	
	General Overhead		259,349		259,349		259,349		259,349		259,349		259,349		259,349		259,349		259,349		259,349		259,349		259,349	3,112,200	3,112,200	
	Total Labor		533,660		533,660		533,660		533,660		533,660		533,660		533,660		533,660		533,660		533,660		533,660		533,660	6,409,950	6,409,950	
	Supplies		1,250		1,250		1,250		1,250		1,250		1,250		1,250		1,250		1,250		1,250		1,250		1,250	15,000	15,000	
	Travel		1,750		1,750		1,750		1,750		1,750		1,750		1,750		1,750		1,750		1,750		1,750		1,750	21,000	21,000	
	Capital Equipment		6,250		6,250		6,250		6,250		6,250		6,250		6,250		6,250		6,250		6,250		6,250		6,250	75,000	75,000	
	Subcontract		350,000		350,000		350,000		350,000		350,000		350,000		350,000		350,000		350,000		350,000		350,000		350,000	350,000	350,000	
	Other		2,500		2,500		2,500		2,500		2,500		2,500		2,500		2,500		2,500		2,500		2,500		2,500	30,000	30,000	
	Other Direct Cost	361,750		361,750		361,750		361,750		361,750		361,750		361,750		361,750		361,750		361,750		361,750		361,750		361,750	491,000	491,000
	Grand Total	895,410		895,410		895,410		895,410		895,410		895,410		895,410		895,410		895,410		895,410		895,410		895,410		895,410	6,954,950	6,954,950

Figure 11 Example Budget for the Mineral Reservation Estate

Category	FY XX												Total	
	October	November	December	January	February	March	April	May	June	July	August	September	Hours	\$
Labor														
Crafts	173.3	7,998	173.3	7,998	173.3	7,998	173.3	7,998	173.3	8,003	173.4	8,003	2,080	96,000
Manager	520	18,000	520	18,000	520	18,000	520	18,000	520	18,000	520	18,000	6,240	216,000
Admin. Assist.	173.3	2,000	173.3	2,000	173.3	2,000	173.3	2,000	173.3	2,000	173.3	2,000	2,880	24,000
Salaries & Wages	867	27,998	867	27,998	867	27,998	867	27,998	867	28,003	867	28,003	10,400	336,001
Employee Benefits	110,400	110,400	110,400	110,400	110,400	110,400	110,400	110,400	110,400	110,501	110,501	110,501	126,000	126,000
General Overhead	13,999	13,999	13,999	13,999	13,999	13,999	13,999	13,999	14,001	14,002	14,002	14,002	168,001	168,001
Total Labor	52,496	52,496	52,496	52,496	52,496	52,496	52,496	52,496	52,501	52,506	52,506	52,506	630,002	630,002
Supplies	250	250	250	250	250	250	250	250	250	250	250	250	3,000	3,000
Capital Equipment	6,250	6,250	6,250	6,250	6,250	6,250	6,250	6,250	6,250	6,250	6,250	6,250	75,000	75,000
Subcontract	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Other	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	30,000	30,000
Other Direct Cost	9,500	9,500	9,500	9,500	9,500	9,500	9,500	9,500	9,500	9,500	9,500	9,500	114,000	114,000
Grand Total	61,996	61,996	61,996	61,996	61,996	61,996	61,996	61,996	62,001	62,006	62,006	62,006	744,002	744,002

Figure 12 Example Budget for Phase 1 (the Start-Up) of the Mineral Reservation Estate Oil and Gas Company

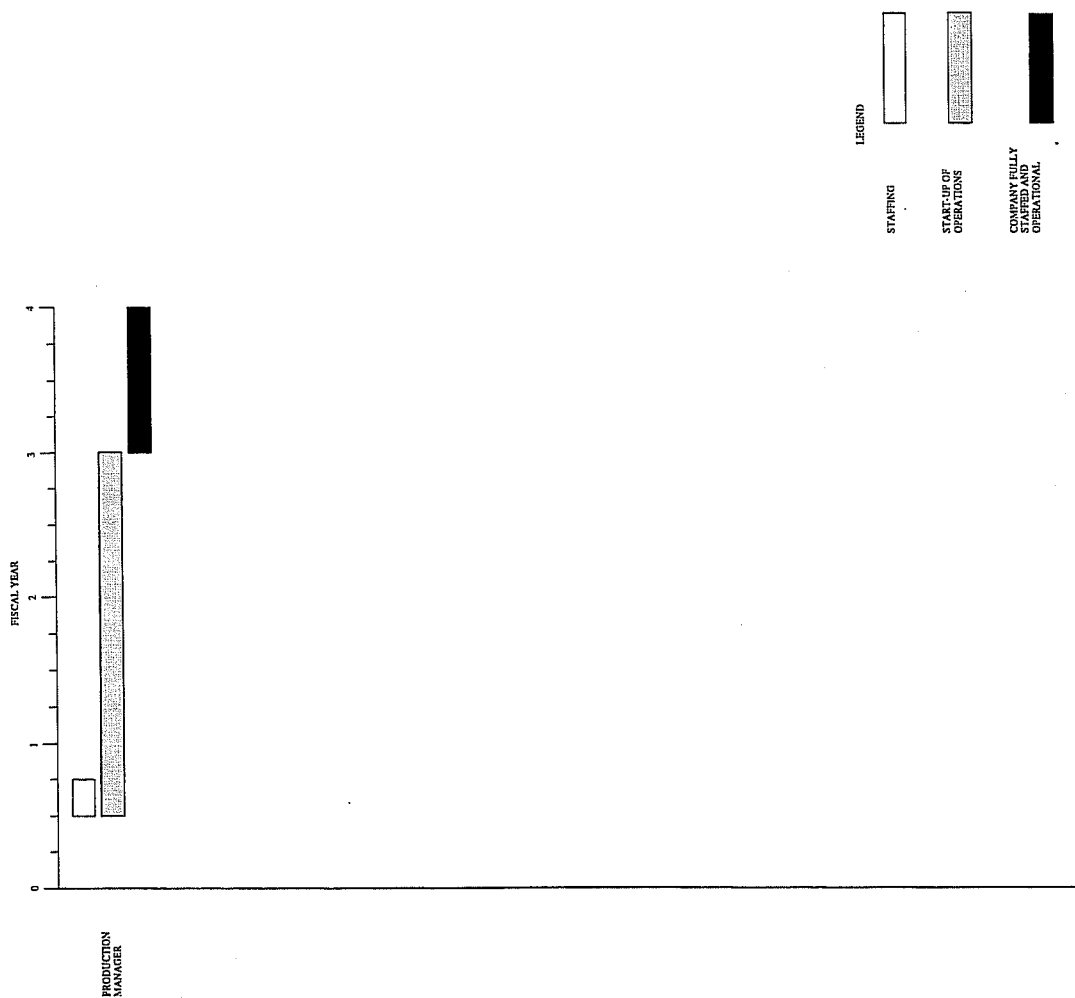


Figure 14 Phase 1 Timeline for Organization and Start-Up of the Production Department of the Mineral Reservation Estate Oil and Gas Company

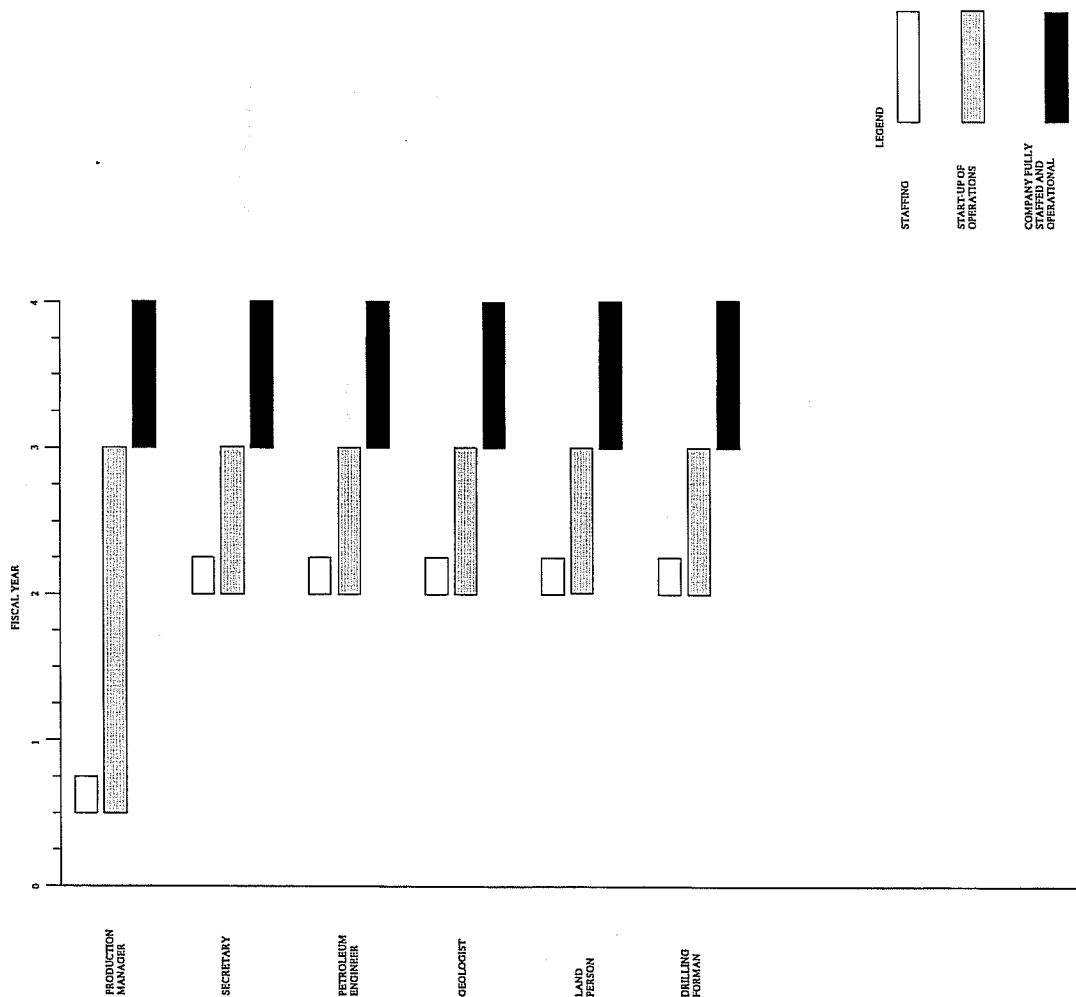


Figure 15 Phase 2 Timeline for Organization and Start-Up of the Production Department of the Mineral Reservation Estate Oil and Gas Company

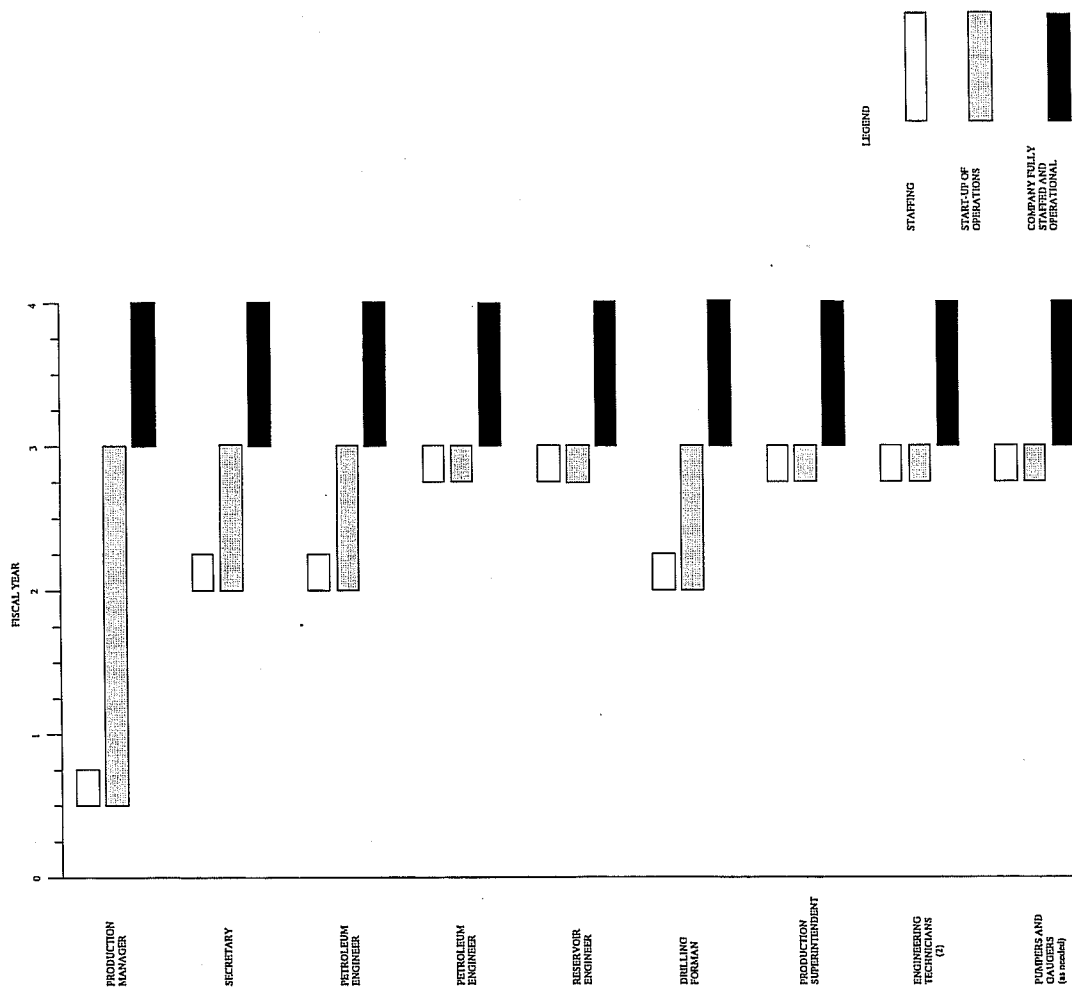


Figure 16 Phase 3 Timeline for Organization and Start-Up of the Production Department of the Mineral Reservation Estate Oil and Gas Company

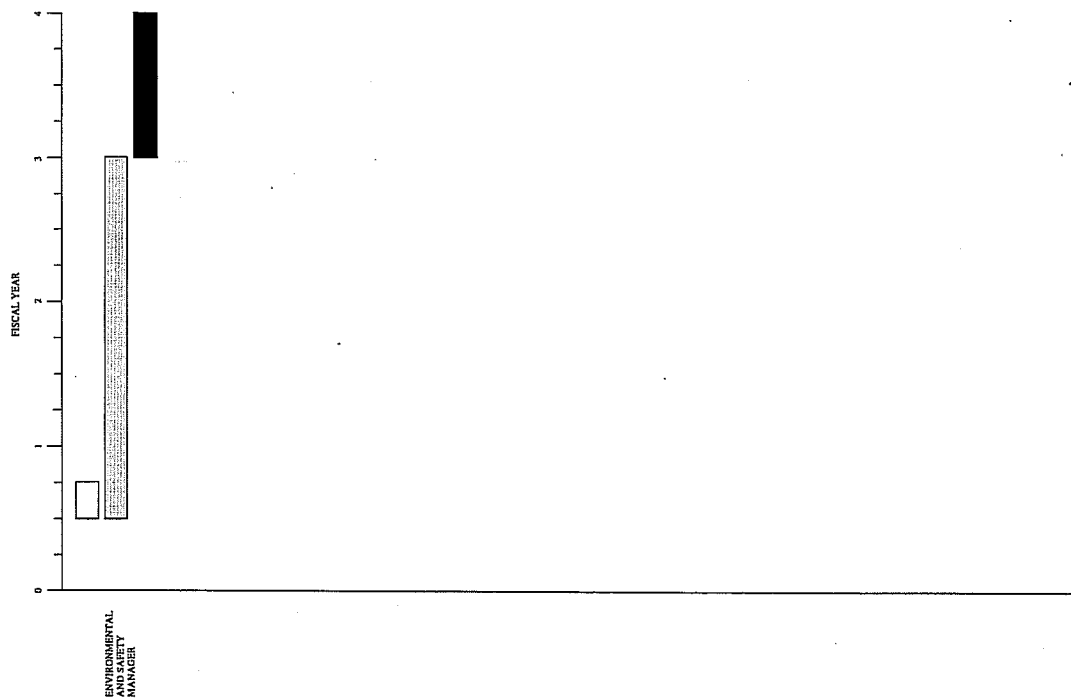


Figure 17 Phase 1 Timeline for Organization and Start-Up of the Environmental and Safety Department of the Mineral Reservation Estate Oil and Gas Company

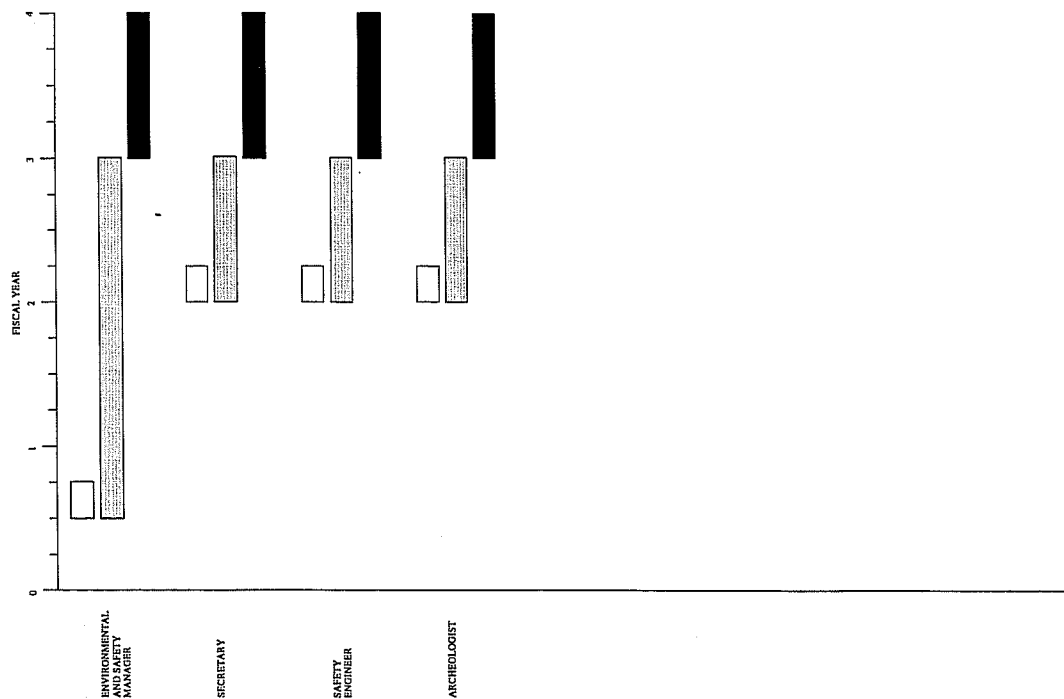


Figure 18 Phase 2 Timeline for Organization and Start-Up of the Production Department of the Mineral Reservation Estate Oil and Gas Company

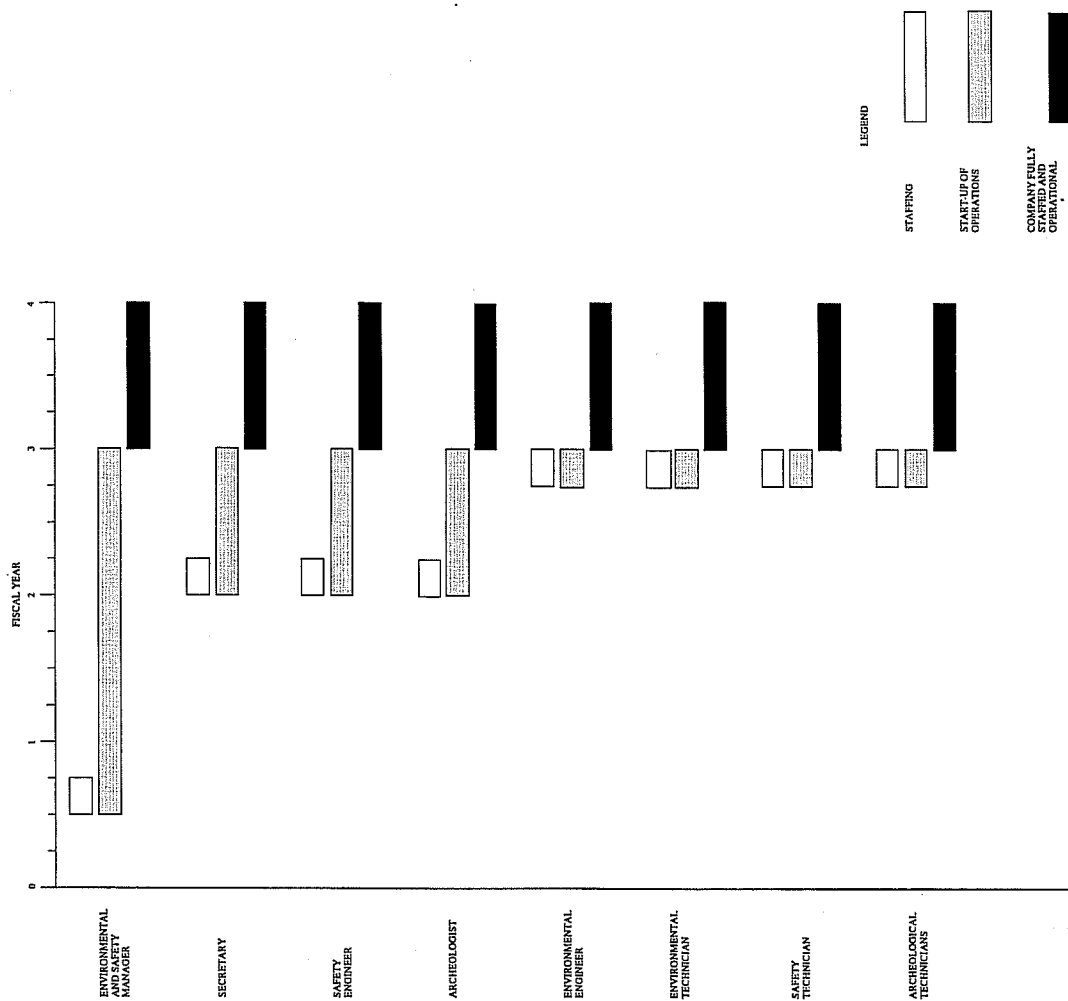


Figure 19 Phase 3 Timeline for Organization and Start-Up of the Production Department of the Mineral Reservation Estate Oil and Gas Company

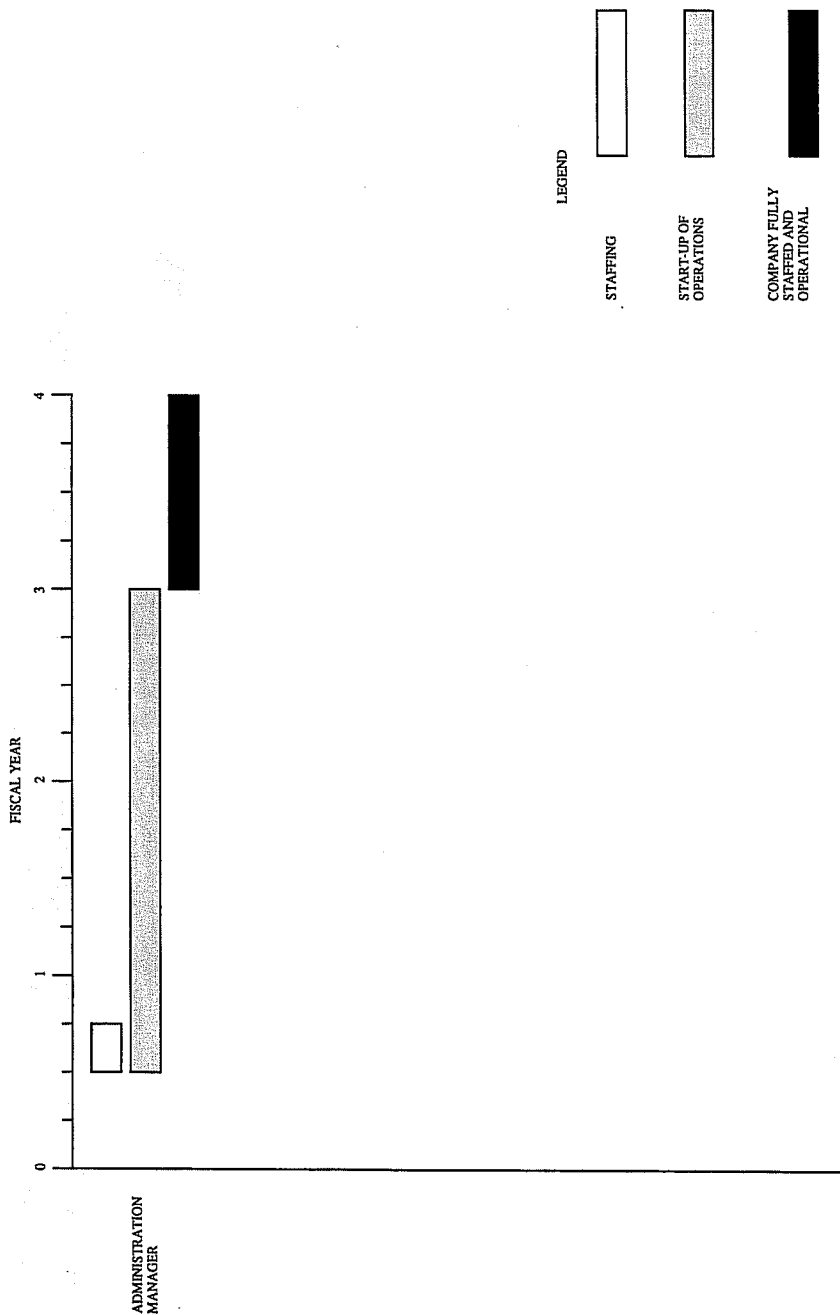


Figure 20 Phase 1 Timeline for Organization and Start-Up of the Administration Department of the Mineral Reservation Estate Oil and Gas Company

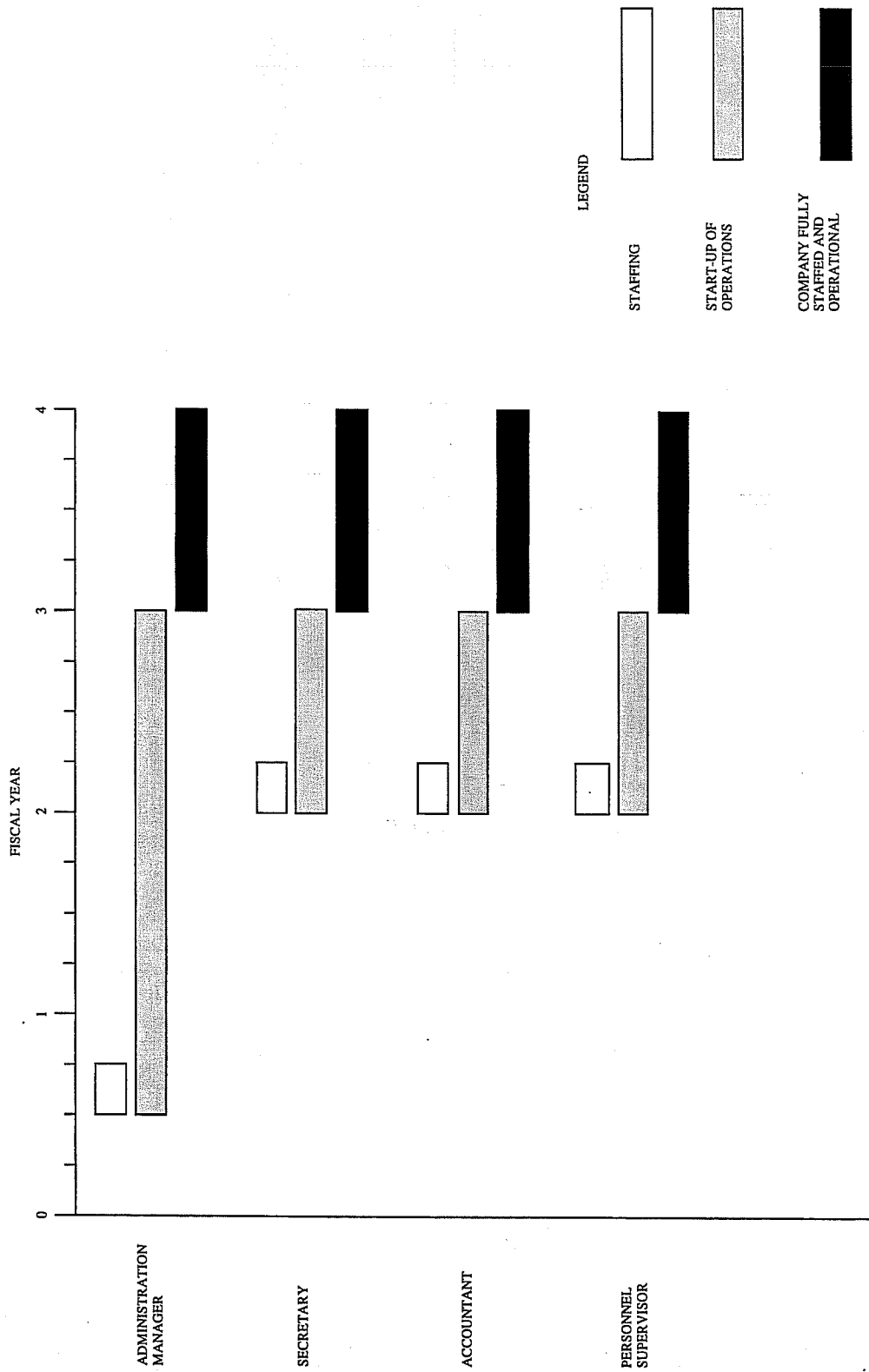


Figure 21 Phase 2 Timeline for Organization and Start-Up of the Administration Department of the Mineral Reservation Estate Oil and Gas Company

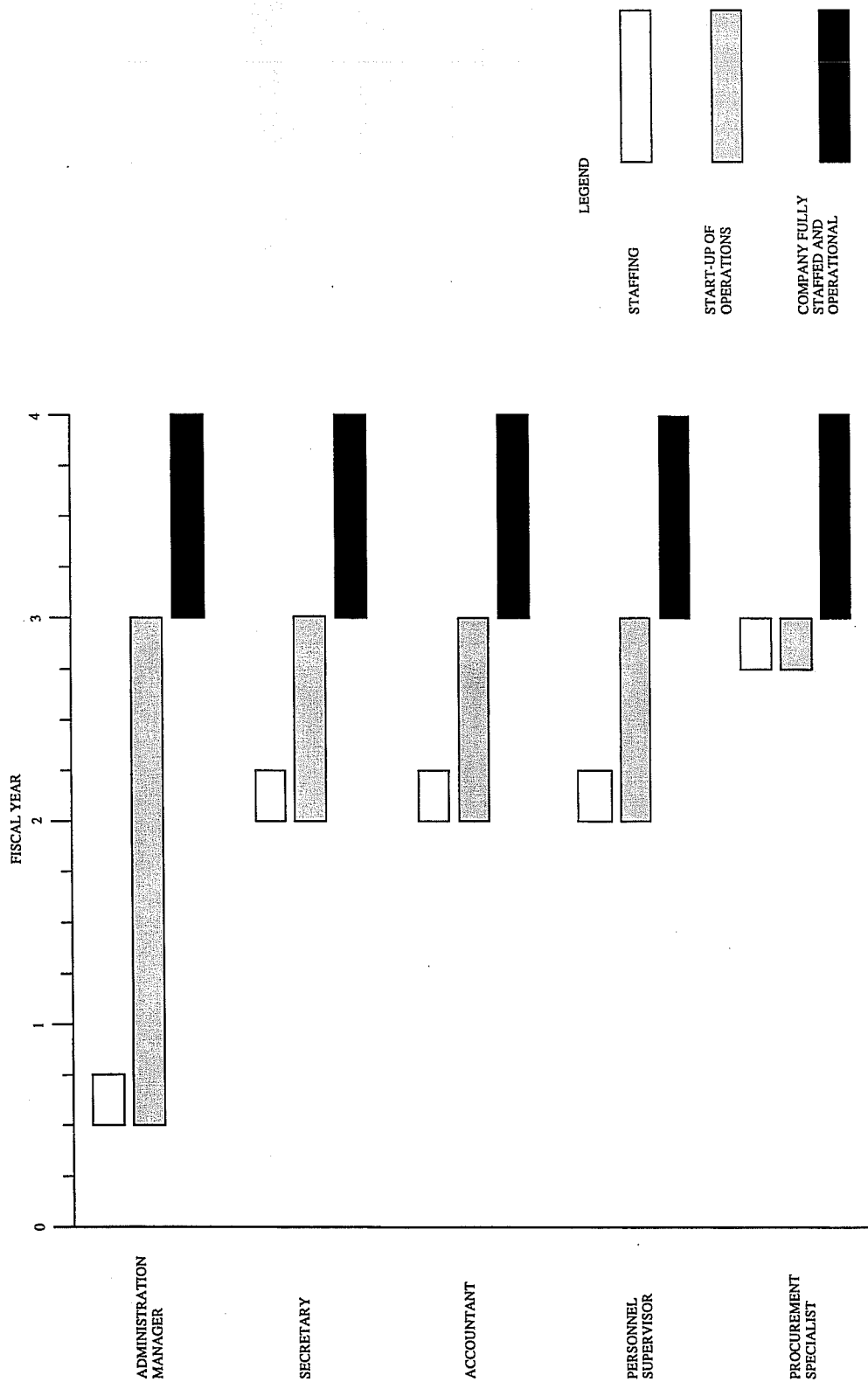


Figure 22 Phase 3 Timeline for Organization and Start-Up of the Administration Department of the Mineral Reservation Estate Oil and Gas Company

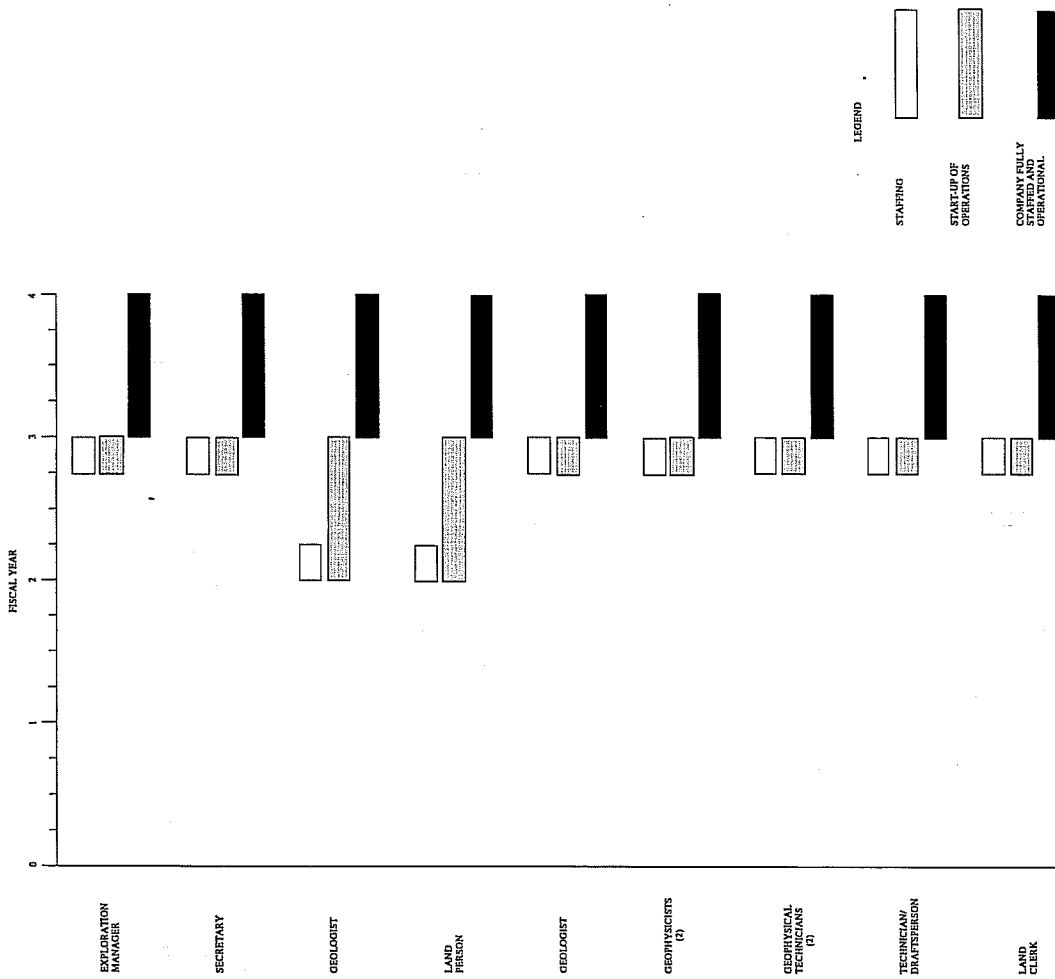


Figure 23 Phase 3 Timeline for Organization and Start-Up of the Exploration Department of the Mineral Reservation Estate Oil and Gas Company

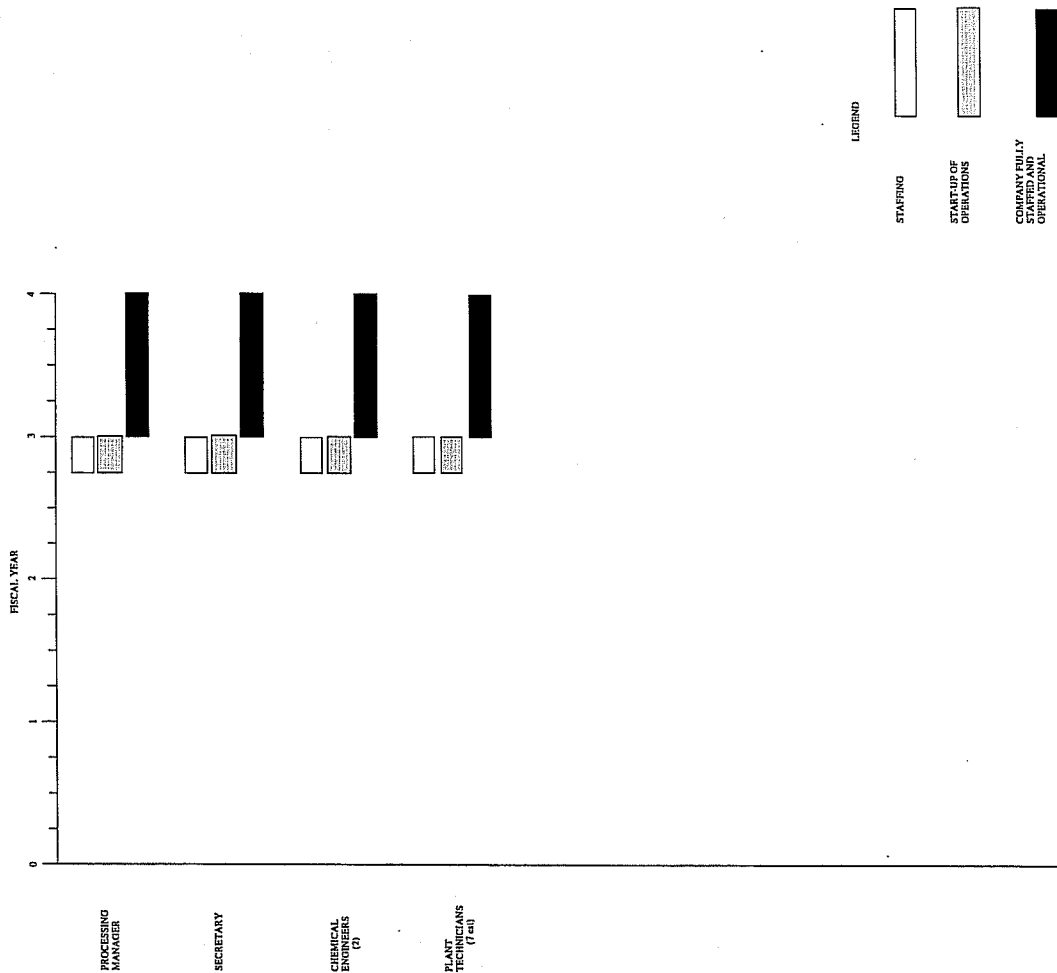


Figure 24 Phase 3 Timeline for Organization and Start-Up of the Processing Department of the Mineral Reservation Estate Oil and Gas Company

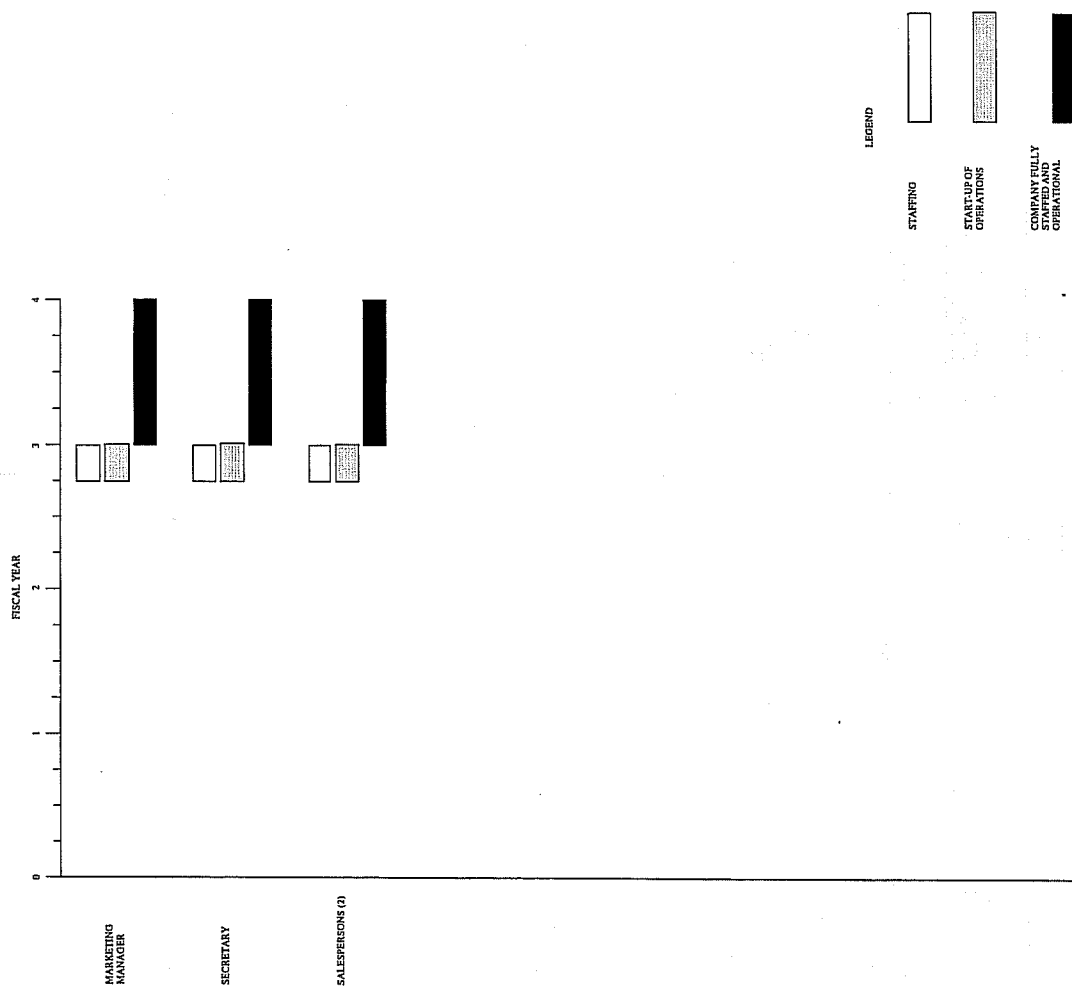


Figure 25 Phase 3 Timeline for Organization and Start-Up of the Marketing Department of the Mineral Reservation Estate Oil and Gas Company

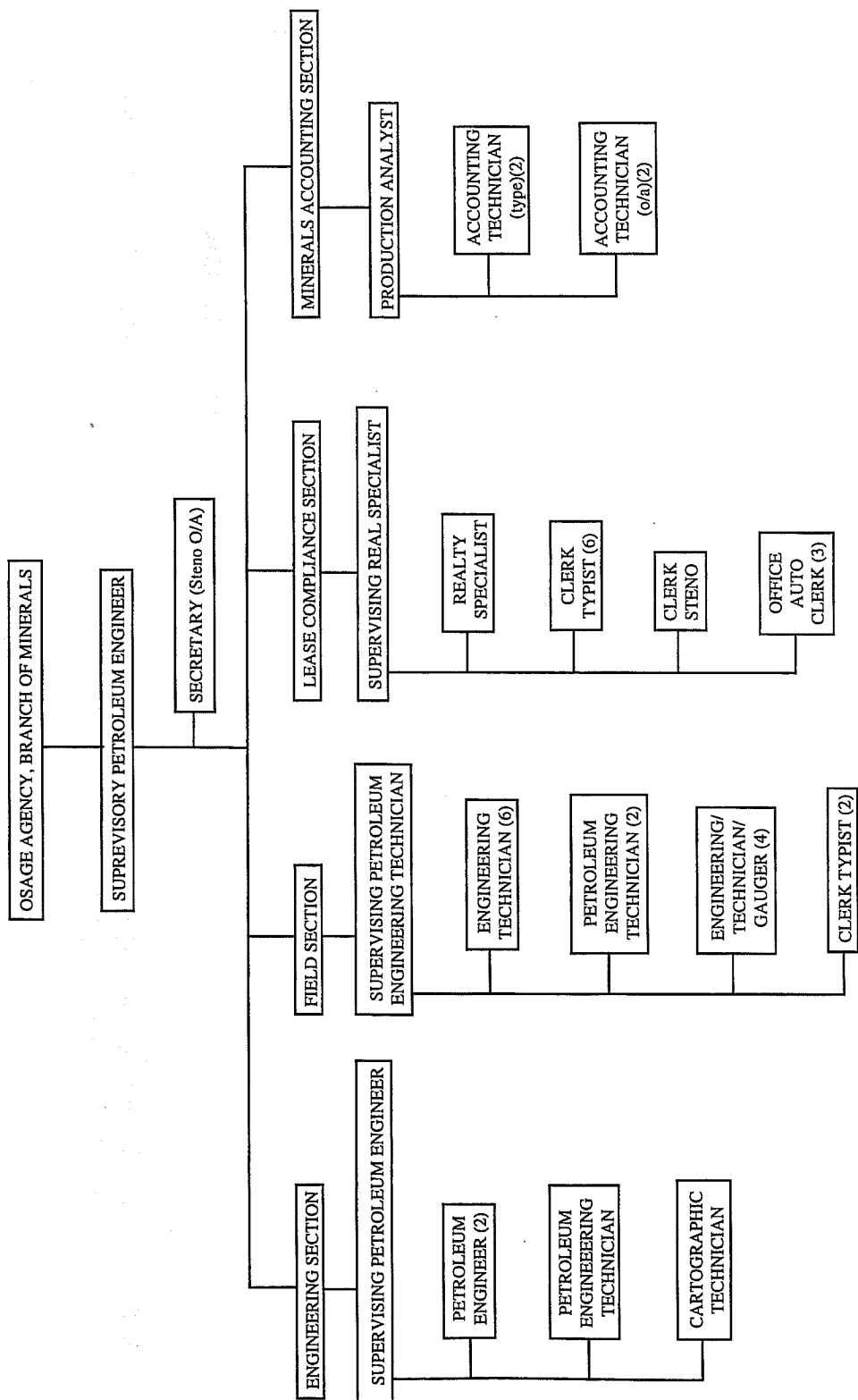


Figure 26 Organization Chart for the Osage Agency, Branch of Minerals, Administered by the Bureau of Indian Affairs